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THE
NATION

DECEMBER 27, 1975 *50 cents*

FRANK TALK ON THE TWO-PARTY SYSTEM

Sen. Charles McC. Mathias, Jr.

Watergate Anticlimax

SCARCELY A FULL REPORT

Rep. Elizabeth Holtzman

ROBERT NISBET'S 'TWILIGHT OF AUTHORITY'

Victor Lebow

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LETTERS

along the grapevine

Walla Walla, Wash.

I wish to say two things about "Federal Prisons: 'One Can See Brutality' " by Edward Bunker [*The Nation*, Nov. 29]: (*1*) It's about time some truth got out. He was easy on the federal system; you've got to see it to believe it. I thank you on behalf of all the men and women in prison across this nation in both state and federal prisons. I know, too, that he is suffering for that letter. (*2*) If you think the federal system is something, you should take a trip through the state prisons of America. The feds are more scientific than the states; the states are just gross and ignorant.

The penal system is the third largest industry in America or does everyone know that? It is no failure; the people that run it are . . . .Behold the new niggers; they come in all colors and you can do anything you want with them.

Carl L. Harp
Prisoner No. 126-516

in debt to del Vayo

Killingworth, Conn.

This morning the invitation from the J. Alvarez del Vayo's Memorial Committee brought me the sad news of the death of a great and noble friend and an indefatigable fighter for the liberation of Spain from the Franco tyranny.

I owed much to him. When I was in Spain in 1929, he was the correspondent of *La Nacion* of Buenos Aires, which maintained handsome offices in Madrid. He took me under his wing and introduced me to everybody of importance. It made possible the four articles I contributed to *The Nation* at that time. It was during the dark hours of Primo de Rivera. In Peru I received a letter of triumph from Manuel Azana, whom I had seen every day in. . . Madrid, and when I learned that Alvarez had been made Foreign Minister I felt that the new Republic was in good hands. . . . When this country and the oil companies secretly helped Franco to seize power, Alvarez wrote to me . . . that he was taking refuge in the United States and said he wanted to get on the staff of *The Nation*. I wrote Freda Kirchwey at once. . . .

He had great faith . . . that this country would never support Franco and would have to look to the men of the Republic for support in the establishment of a free Spain. Instead of that, this country became the leading supporter of Franco and his prolonged tyranny. It ranks with our overthrow of Salvador Allende and the establishment of the bloodthirsty regime in Chile. Fortunately, Alvarez lived long enough to observe the disintegration of the Franco regime and the rise of European antagonism to his inhumane rule. My own life was enriched by knowing this dauntless and tireless Spanish leader. . . .

Carleton Beals

words make a difference

Springfield, Ohio

Edwin Newman noted in *Strictly Speaking* that "language is in decline." It is therefore unfortunate to see *The Nation* give support for this view.

Robert C. Aldridge wrote in "Trident: American Roulette" [Nov.22] that "It meets the need for weapons to fulfill a second-strike-only policy." This is not a policy—it is a strategy. It should be obvious that if we admit this interchangeable use of the words "policy" and "strategy," then we will have, as indeed we do, the military formulating policy. . . .

Even *The New York Times* today doesn't know the difference between these terms . . . and, hence, is unable to make an intelligence analysis of events. James Schlesinger was fired supposedly because he had "policy" differences with Kissinger. But it has never occurred to anybody to state that Schlesinger and the Defense Department have no business having "policy" differences with the State Department. Since *The New York Times*, and other journals, don't know the difference between "policy" and "strategy" . . . they cannot make an intelligent comment.

Robert E. Walters

EDITORIALS

The Mathias Intiative

In his October 30th speech to the National Press Club and in an article in this issue, Sen. Charles Mathias has voiced sentiments that most liberal Republicans will privately if not publicly applaud. Even before a recent Gallup poll placed Reagan ahead of Ford, Senator Mathias had joined Senator Percy in the preparation of a 400-word statement, circulated in Republican leadership circles and said to have been signed by fifteen Republican Senators, which warned the President that the GOP must retain a broad base of appeal. The warning was ignored, with consequences that have now become apparent.

With the New Hampshire primary close at hand, Ford's fund raisers have run into serious difficulties and David Packard has bowed out as the chief money man. Three or four press aides are reported ready to desert what they regard as a sinking ship. Between them, Howard H. Callaway, President Ford's campaign manager, and Vice President Nelson Rockefeller appear to have seriously damaged Mr. Ford's cause at the recent Houston meeting of the Southern Republican Conference. The President continues to receive conflicting political advice and usually opts for the least viable alternative.

But Ford's main problem is that Republicans, like most other voters, have come to see him for what he is: a bumbling mediocrity. Frequent appearances have given his true character wide currency and the harder he campaigns the more evident it will become. As a campaigner he is no match for Reagan who, as Vice President Rockefeller notes, has that one great speech with the twenty-eight pauses. Nor can he possibly move to the right of Reagan. At the same time, by forcing Rockefeller off the ticket and ignoring the Percy-Mathias warning, he has alienated the liberal-moderate Republicans ("astounding . . . incredible . . . appalling," Rep. John Anderson said of the Gallup poll) who are mostly from the heavily populated states. Thus, with neither wing of the party in his camp, the President is finding it very difficult to locate a solid constituency on which to base his campaign.

Senator Mathias realizes, of course, that it is too late for any of the liberal Republicans to enter the primaries; besides that would only help Reagan. And it is perhaps too late for them to mount a fight at the convention which will, in any case, probably be dominated by conservatives. But he has not ruled out the possibility of an independent candidacy, though for technical reasons it would be difficult to launch. Should such a last desperate effort be made, he has said that he would hope to be considered as the candidate. He would be a good choice. In heavily Democratic Maryland, he has won four terms in the House and two in the Senate (he was re-elected last year). He was an organizer of the Wednesday Club—of liberal Republicans—in the House and of a similar group in the Senate. He was an early critic of the war in Vietnam and was one of only two Republican Senators on Nixon's celebrated enemies list (the other was Sen. Richard Schweiker). At 53, he is one of the best liked members of the Senate, respected by the Washington press corps and widely

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admired by those shrewd sideline observers, the Senate press aides and administrative assistants. It will be said that he has raised the issue of an independent candidacy only to emphasize the earlier warning to the President about narrowing the base of the party's appeal, but that does not seem to be the case; he is serious about his initiative and he had better be, for it might well jeopardize his career in Maryland.

It is always possible that the President, in the wake of sharp defeats in a couple of the early primaries, just might decide, for "family reasons" or "the good of the party," not to seek the nomination. But barring some such eventuality, the liberal Republicans have the option of sitting out the campaign should Reagan be nominated or of supporting an independent candidate. Time is running out on the kind of politics they have played with considerable success for several decades. Under Eisenhower they had little difficulty in fending off right-wing, ultraconservative attacks. Since many of them came from "big states," they were an asset to the GOP in both state and national politics, for they could and did attract the votes of independents and disaffected Democrats. As a group they include some of the best political talent in the party, including Governors such as Tom McCall and William Milliken, Senators such as Percy, Hatfield, Packwood, Mathias, Javits, Brooke, Weicker, Case, Schweiker and others.

But they cannot, in their own interests, permit the Republican Party to be captured, without a protest, by the Reagans, Goldwaters and Towers. Either they take some public action or they will be charged with a measure of responsibility for the reactionary takeover and their own careers will be in jeopardy. Early on, Wayne Morse saw the handwriting on the wall and, with characteristic courage, switched his registration and, quite logically, became a Democrat. If Nelson Rockefeller had made a similar move, at the proper moment, he might have been elected President. Now he is reduced to the sorry posture of bitterly reminding delegates to the Southern Republican Conference that they no longer have him to "worry about"—much as Nixon once said at a famous press conference that reporters would not have him "to kick around any more." What the liberal Republicans must face is the fact that the forces backing Reagan are, as conservative columnist Patrick Buchanan has pointed out, an all-or-nothing school: "conservatives before they are Republicans, counterreformationist as much as conservative." They would cheerfully wreck the Republican Party if they thought they could take undisputed control of the wreckage.

President Roosevelt properly appreciated the importance of the liberal Republican constituency. It has money; it has power; it has talent; it is concentrated in key states.

NOTICE TO OUR READERS

The Nation will not publish on January 3. Our next issue will be dated January 3-10, 1976.

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Estimates suggest that the liberal-moderate constituency may number 10 million to 12 million votes. Roosevelt had this constituency in mind when, in the last year of his life, he sent emissaries to sound out Wendell Willkie on the possibility of his being named Ambassador to the U.N. He hoped thereby to establish a liberal Republican, liberal Democratic coalition to win the peace. Willkie's untimely death in October 1944 ruined that strategy. Nevertheless, such a realignment has been in the offing for years and an independent candidacy might be a step in that direction. If right-wing elements take over the Republican Party, as may happen, the liberal Republican rationale for staying in the party—that they want "to work from within"—will have a hollow ring. It may well be that 1976 is the year when time finally runs out on the heirs of Wendell Willkie. It is this risk that underscores the importance of the Mathias initiative.

Angola

The issues and facts involved in the Angolan civil war are too complex for summary editorial comment. But one fact can be stated briefly and needs to be stated sharply if the Angolan matter is to get the timely airing it deserves in this country: the American news media have largely misinformed or failed to inform their publics.

Once again it is evident that the lessons of Vietnam have not been learned. With the exception of the reporting in the *Los Angeles Times* and scattered articles and commentary in *The New York Times*, this country's commercial news media, as they did with Vietnam, have been uncritically parroting the administration's distortions of events in Angola. Though some critical words have been read and heard this month—notably from CBS—the reporting over the last fourteen years, since the start of the Angolan war of independence, could largely have been written in the White House. We have been told that the United States' goal in Angola has been to counter Soviet influence—to prevent, as Tad Szulc put it in *The New Republic* earlier this month, "the emergence of a Soviet-controlled Angolan state . . . the first full-fledged Soviet satellite in Africa." American unity with South Africa in fighting the Popular Movement for the Liberation of Angola (MPLA) and endorsing the joint anti-MPLA effort of two rival factions—an enterprise the Chinese once participated in, but from which they withdrew—has been portrayed as a fight for Angolan self-determination and against Soviet expansionism. Soviet military aid must be countered. The arrival of 3,000 Cuban troops on Angolan soil must be balanced. So $50 million in secret aid is authorized. At least five American-piloted spotter planes fly over Angola. The Ford administration has stated that no troops, nor even any advisers, will be sent in after the arms, that our major interest there is "limited" and does not represent a major face-off with the USSR.

"The recent statements have familiar echoes," noted a *New York Times* writer. This reference to Vietnam is accurate, both in the nature of the anti-Communist, confrontation rhetoric being used and in the degree of distortion resorted to by the administration. Bits of fact countering Henry Kissinger's Angola line have found their way into the media, tucked between uncritical reports of administration saber-rattling. Involvement in Angola goes back more than a decade. The Soviet Union has given support to the MPLA since 1961, whereas the United States generally allied itself with Portuguese colonialism. Whatever American anti-colonial aid has gone into Angola since the early 1960s, much of it through Zaïre, was paid from the CIA budget to one of the anti-MPLA factions. The latest round of escalation seems to have had a chronology at odds with that advanced by the administration. Oswald Johnston of the *Los Angeles Times* reports that, according to his intelligence sources, the "initial superpower decision to intervene in Angola may have been made in Washington." Seymour Hersh reports in *The New York Times* that his sources say the CIA was first authorized to support both anti-MPLA factions in the spring. It was only after this initial American push, augmented in July, that the Soviet Union began the massive airlifts which the administration now denounces so self-righteously. The first Cubans arrived in September. Just when the South African invasion began is still uncertain, though it seems to have been well underway by some time in the autumn. There is evidence that the Afrikaners have been joined by Portuguese mercenaries disenchanted with the Lisbon government's anti-colonial policies.

It is mischievous to call the People's Republic of Angola, declared by the MPLA forces in Luanda November 11, a Soviet satellite. As George M. Houser of the American Committee on Africa wrote in *The New York Times* earlier this month, "After long years of combat against the Portuguese [the Angolans] will not easily accept domination by a new foreign power. It is a gross and demeaning distortion of reality to present the men and women of the MPLA as Soviet puppets. And certainly the Cubans are not taking over Angola." Even Szulc points out that the MPLA President, Dr. Agostinho Neto, "is a radical nationalist . . . there is no proof that he is a Communist."

But even if he were, that would not justify secret U.S. intervention. U.N. Ambassador Moynihan claims that what is at stake is a struggle to control vital tanker routes between Asia and Europe and asserts that the "Soviet Union with its proxy armies from Cuba has invaded the southwest region of Africa." Framing the issue in this way ignores the colonial background out of which the struggle has emerged and the racial overtones it has assumed with the direct intervention of the Union of South Africa. What is needed is a fair discussion of the issues and full disclosure of the facts. Soviet and Cuban intervention is a fact, but there are others that ought to be made known. Until quite recently, the American news media, with a few exceptions, had been reluctant to provide them. Now at last some of the information about U.S. intervention is coming out. After Vietnam and the investigations of the CIA it is no longer quite so easy to involve the country in military adventures the causes and implications of which are not fully known to Congress and the public. So while it is encouraging that the press has suddenly begun to report the facts and that there are growing forces in the Congress which seem determined to block further American involvement, Angola's future is still far from resolved and demands continued accurate and detailed discussion in the press and the Congress.

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Bad Judgment, Again

President Ford continues to choose poorly in his nominations to jobs in the executive branch (see editorial, "Rejected Nominees," *The Nation*, November 29). His latest controversial selection—Mitchell Kobelinski to head the Small Business Administration—has been opposed by the Chicago Better Government Administration, a corruption-fighting organization.

The association has compiled a fine record while engaged in the herculean task of cleaning up Chicago; it deserves at least a hearing when it opposes a governmental appointee. And in this case especially, what it would say should be on the record, since Kobelinski seems to have engaged in some shady transactions with Floyd Fulle, a Cook County commissioner—since sentenced to a five-year term for other abuses of public office—in the association's own bailiwick.

According to J. Terrence Brunner, executive director of the Chicago group, Kobelinski was an officer in the Parkway Bank and Trust Co. when in 1966 the bank sold stock to Fulle, a Republican, after the county deposited with the bank $300,000 in interest-free funds. According to the Associated Press, Fulle had a say in which banks were to receive county funds.

The commissioner was made a director of the bank; the county thereupon doubled its interest-free funds on deposit. If not illegal, the sequence of transactions, according to Brunner, was "highly improper." Kobelinski must have known of the "classical conflict of interest" involving Fulle, Brunner has said.

Kobelinski's involvement in such dubious business failed to deter President Nixon from appointing him to a directorship of the Export-Import Bank. By nominating him to head the SBA, a scandal-ridden agency under Nixon, Ford once again has shown miserable judgment. The alternative possibility—that Ford did not trouble to have Kobelinski's background investigated, and so was ignorant of his past connections—is even more distressing.

The J. Edgar Hoover Collection

H.H. Wilson, dour and doughty professor of politics at Princeton University, has initiated what promises to be a project of lasting significance in the field of civil liberties. Annoyed, as he has every right to be, with the inaccuracies, silliness and irrelevance of his personal FBI file, Wilson resolved that some means should be found to encourage the study of the folly it represents. The obvious first step would be to collect a representative sample of such file material and to deposit it at some reasonably accessible institution where it can be made available for inspection. So he has arranged for the Library, Princeton University, to act as the depository for personal FBI files.

The initial response has been most encouraging. If a large number of such files can be deposited at Princeton, scholars and others will have a chance to study them in a leisurely way. Such studies should yield some interesting data: how accurate are the facts? What is the percentage of error per file? What do the files reveal about the sources used to obtain such information? How pertinent have been the political "overviews" reflected in this file material? How much, really, did the FBI ever know about the "Left" in American politics against which most of its surveillance activities were directed?

Original files need not be sent; photocopies will be received. It should be relatively easy to acquire through donations enough file material to demonstrate how, over a period of several decades, a gullible electorate permitted politically illiterate agency personnel and corrupt informers to spend public funds for the purpose of defaming citizens neither guilty of a crime nor suspected of or charged with criminal behavior. No better "home" for such material is likely to be found than the library at Princeton. As long as the only collection of such file material is in that "great brooding Bastille," as Alan Barth described the new J. Edgar Hoover FBI Building (*The Washington Post*) it cannot be studied en masse but a representative sample of files will suffice. Only now is the public beginning to sense what a dangerous agency the FBI became, in some of its activities, under Hoover's dominance and direction. No President governed him, no Attorney General ruled him and, as Barth notes, "No Congress fixed boundaries for his roving authority"—and that authority roamed very far indeed. Just ten years ago, 84 per cent of Americans surveyed by Gallup gave the FBI a "highly favorable" rating; today only 37 per cent do so. A collection of the kind proposed for the Princeton Library should remind present and future generations of the folly of the J. Edgar Hoover idolatry of the last several decades and the attendant dangers of a secret political police.

Presented by Xerox

The connection between advertisers and editorial content in most authentic journalistic enterprises is complex and normally latent. Direct advertiser interference in modern print journalism is hardly unknown but it is usually an aberration. In broadcasting, where unsponsored programs are the rare exceptions, the connection is explicit. In public TV it has often been pervasive.

While the connection between funding and programming has produced something less than an ideal situation, it has resulted in the broadcast of some material that would otherwise almost certainly not have been shown. The executives at Xerox, one of the more enlightened of American corporations in its advertising policies, boast of having made possible on CBS *Fear on Trial* and *The Autobiography of Miss Jane Pittman*, programs which, though hardly a threat to the dominant American structure, were unusual attempts at political television fare.

Now, to "parallel what we do on TV," as a Xerox vice president has put it, the company has expanded its influence to the print media, specifically to *Esquire*. That magazine's February issue will feature an additional 24 pages, thanks to Xerox's largesse. Included, besides two full-page Xerox ads, will be the product of six months' work by Harrison Salisbury: *Travels Through America.* Xerox in essence paid Salisbury $40,000 plus $15,000 in expenses while retaining no editorial rights over the project. The company promised an additional $115,000 in 1976 advertising, at least in part to compensate for the

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production costs of the 24 pages, if it liked the article. It did.

Esquire has had its troubles this year—its ad pages are off 29 per cent and its revenues down slightly more than half that—yet, according to *Advertising Age*, "Apparently the venture offers little, if any, direct profit gain to the magazine." But, the trade paper goes on, "Certainly, Mr. Salisbury's work is likely to enhance *Esquire*'s sales appeal," and its editor in chief, Arnold Gingrich, "did say his magazine might well entertain the same kind of sponsor cooperation in the future." Gingrich says he would not become involved in a partnership that would, say, involve an oil company and an article on energy politics.

Esquire and Xerox executives reported on December 14 that they had heard no adverse reaction to their arrangement. "I suppose we can still expect some criticism, especially from journalism reviews," said *Esquire* senior editor Lee Eisenberg, "but it will be largely unjustified."

He's wrong. While *Esquire* is in many ways a good magazine and Salisbury a fine journalist of integrity, the arrangement is highly suspect. Salisbury no doubt wrote what he wanted to, uninfluenced by Xerox pressures, yet if Xerox executives had not liked his piece, *Esquire* would have been out $115,000 in advertising and forced to bear the costs of its publication. As *Advertising Age* put it, "skeptics immediately wondered if the unprecedented notion of specific magazine article sponsorship might not lead to new avenues of veiled propagandizing in the hands of lesser sponsors and magazines." Perhaps more dangerous is the prospect of widespread article sponsorship, a practice which would limit beyond current restrictions the ideological variety of material found in most advertising-supported print media. In that sense, magazines may be entering the television age. If they do, the ultimate results of the Xerox-*Esquire* connection may "parallel what we do on TV" in ways that are hardly benign.

The Nation's New Editor

Readers of this publication are doubtless as aware as I am that there can be no such thing as a replacement for Carey McWilliams. I will have more to say on that subject in our next issue. But a successor has been found, one whose services we are most fortunate to obtain.

He is Blair Clark, a man of long experience in many forms of journalism, and politics as well. The highlights of his career include the editorship of the Harvard *Crimson*, reporting for the *St. Louis Post-Dispatch*, European correspondent for CBS News, followed by the general managership of that organization, two years as associate publisher of *The New York Post*, manager of Eugene McCarthy's 1968 Presidential campaign, and considerable magazine writing.

Mr. Clark was a founder of the Committee for Public Justice (affiliated with the ACLU) and, until resigning to become Editor of *The Nation*, a director of the *New York Review of Books*, the Center for the Study of Democratic Institutions and Citizens' Research Foundation. He is currently writing a book on the military in American politics—past, present and future.

James J. Storrow jr.

WATERGATE ANTICLIMAX

SCARCELY A FULL REPORT

REP. ELIZABETH HOLTZMAN

Washington

The office of the Watergate Special Prosecutor was given the responsibility for conducting perhaps the most important criminal investigation in the history of the United States. Its mandate included prosecuting all crimes arising out of the break-in at the Democratic headquarters on June 17, 1972, and investigating criminal charges against Richard M. Nixon, then President of the United States and his staff or appointees.

The Report of the Watergate Special Prosecution Force, issued on October 16, is disappointing.* It fails to answer many of the old questions—including those that gave rise to the formation of the Special Prosecutor's office. We still don't know who ordered the Watergate break-in, and why. And this report, unfortunately, raises many new questions about the thoroughness of the Special Prosecutor's investigations and the soundness of some of his decisions not to prosecute. "Was the investigation itself completed?" remains an open question.

*Although it is not called the Final Report, Special Prosecutor Henry Ruth has indicated that the job of his office is substantially completed and that this document summarizes its work.

Archibald Cox, the first Special Prosecutor, in response to a question at Senate Judiciary Committee hearings about the nature of the final report, pledged that "prosecutions [would] be brought where there is a proper basis for prosecution" and "the reasons for not bringing other prosecutions or reason for not indicting other figures . . . [would] . . . be included certainly in the final report." He added that "all the facts with respect to [individuals in high office] ought to be out."

It is difficult to imagine that the Senate would have accepted any lesser commitment from the Special Prosecutor. In fact, it is inconceivable that the Senate would have been satisfied had it been told that no prosecutions would be brought for the Watergate break-in, that the investigation would not disclose who ordered the break-in or why, and that the report would not even attempt to explain these failures.

Distressingly, the report abrogates the commitment Archibald Cox made to the United States Senate. More important, it fails to meet the reasonable expectations of

Elizabeth Holtzman is the Democratic Representative in Congress from the 16th District of Brooklyn. She is a member of the House Judiciary Committee.

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the American public and the Congress that, when the Special Prosecutor's investigations were completed, criminal responsibility would have been clearly pinpointed through the bringing of prosecutions, or that failure to assign criminal responsibility would have been clearly explained.

The most serious defect of the report is that it does not allow the Congress and the public to judge whether a full, thorough investigation was in fact conducted. In this regard, it is noteworthy that *after* the report was issued the Special Prosecutor's office reopened the investigation into corporate contributions because of disclosures that the Gulf Oil Corporation illegally contributed to Nixon's 1972 re-election campaign, as well as to well-known Democratic and Republican officeholders.

In order to assess whether the Special Prosecutor did conduct a full investigation, we need to know whether he tried to obtain all relevant Presidential tape recordings—the most important and probative evidence available. Unfortunately, the report is silent on whether the Special Prosecutor obtained all such tapes, or even if he sought to obtain them.

In another instance, we are unable to judge the degree of investigative thoroughness because the description of the $100,000 that was contributed by Howard Hughes and held by Bebe Rebozo is so cursory. According to the Senate Select Committee report, Rebozo refused to produce for the committee a number of financial records. Were these materials obtained by the Watergate Special Prosecution Force? No prosecutions ensued in this case.

The Senate committee was thwarted in its attempt to obtain relevant information about this and other matters when Thomas Wakefield, a lawyer who represented both Rebozo and Nixon, asserted the attorney-client privilege. Was his full testimony obtained by the Special Prosecutor? If not, was it because the Special Prosecutor failed to challenge his claim of privilege? If that is the case, why was the claim unchallenged?

On September 21, *The New York Times* reported that certain financial records in the Rebozo investigation were never obtained and that Bebe Rebozo and Robert Abplanalp were never called before the grand jury. If that story is accurate, the Special Prosecutor should explain what happened. The report should have given us enough information to determine if the Hughes-Rebozo matter was properly investigated—and it could have done so without compromising the parties' rights.

It may well be that the Special Prosecutor conducted a comprehensive, complete, relentless investigation of all the matters falling within his jurisdiction. But one would never know it from this report alone, and we are entitled to the assurance. The central lesson that Watergate taught is that neither the public nor the Congress should be required to accept on faith that public officials do their jobs.

In my judgment, another serious inadequacy in the report is its failure to describe the investigation of criminal charges against Richard Nixon. We know that on September 3, 1974, the Special Prosecutor was investigating ten areas of Richard Nixon's possible criminal liability, but the report is silent on the outcome of these investigations. Were they completed, or did they instead

Hugh Haynie, Louisville Courier-Journal

"There, That Pretty Well Wraps It Up."

abruptly halt when the pardon was issued? The Special Prosecutor has no basis for refusing to disclose whether these investigations were completed. His failure to do so is puzzling indeed.

Aside from mentioning Mr. Nixon's status as an unindicted co-conspirator in the Watergate cover-up, the report does not describe his complicity in criminal activity nor does it exonerate him of any charges. The Special Prosecutor may certainly raise a number of serious arguments against disclosing information about individuals who were never prosecuted, but these arguments are not persuasive in the case of a President who accepted a pardon, thus precluding criminal prosecution, and tacitly acknowledging his guilt. The Supreme Court has determined that a public official's right to privacy about matters directly connected to the discharge of his official duties is severely restricted when the public's right to know about such conduct is invoked.

The Special Prosecutor told a House Judiciary Subcommittee in January 1975 that a fuller report from his office was neither necessary nor desirable, inasmuch as voluminous disclosures would eventually occur under the Presidential Recordings and Materials Preservation Act. The Special Prosecutor misses the point. The issue is not only whether the information will become public but how soon and in what form. The litigation on the constitutionality of the tapes legislation has not even reached the Supreme Court. Even if the Act is upheld, the General Services Administration estimates that the first set of documents will not see the light until three years after the

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Supreme Court's decision.

Finally, the public needs guidance through this welter of materials. The Special Prosecutor, a nonpartisan official with a broad mandate, has a special credibility. He alone can answer the public need for a nonpartisan account of official misdeeds. Thus, another serious shortcoming of the report is its failure to explain convincingly why prosecutions were not brought in certain circumstances. For example, I am perplexed by the report's account of the decision not to prosecute in connection with the submission of incomplete transcripts to the House Judiciary Committee. The report claims that no criminal intent could be found.

The Special Prosecutor decided that President Nixon's offer to allow the chairman of the House Judiciary Committee and its ranking Republican member to verify the transcripts submitted to the committee was a bona fide offer. The report concludes: "All the available evidence indicated that the verification offer made by the White House to the committee was made with the full expectation that the offer might indeed be accepted." The relevant question is not whether the offer would be accepted but whether, if accepted, it could have resulted in verification. The report, surprisingly, assumes so, although the House Judiciary Committee rejected the White House offer after a full discussion about why the offer was unlikely to produce verification. The problems the committee raised then are still valid:

(*1*) The authenticity and completeness of the tapes heard could not be verified, since no technical experts would be allowed to examine them.

(*2*) The time factor involved in having two people listen to the tapes—even assuming that all tapes had indeed been presented—was unrealistically long.

The Nixon verification offer covered twenty-three tapes containing thirty-five hours of conversation which had been reduced to 1,308 pages of typed transcript. A former Judiciary Committee staff member has said that a "conservative estimate" of the time it took the staff to transcribe the eight tapes submitted to the committee in October 1973, was two hours per minute of tape.* At that rate, had Chairman Rodino and ranking minority member Hutchinson undertaken to verify the transcripts—doing nothing but listen for eight hours a day, five days a week—verification would have taken two years. They would still be listening to the tapes today. The impeachment inquiry would not have been resumed until President Nixon's term had expired. To accept such an offer as bona fide simply strains credulity.

Another questionable explanation for a failure to prosecute is given in regard to the investigation of so-called "national security wiretaps." The report states that no prosecution occurred for any wiretap that might at any time have been construed as related to national security. This is a dubious policy because the report itself concedes that there was "room to contend" that some national security wiretaps were later "altered to an impermissible domestic political goal." It is not clear whether this excessive prosecutorial caution springs from prudence or a desire to establish a perfect win-loss record.

Even more disturbing, the report states that no prosecutions were brought for two wiretaps that were wholly unrelated to national security from the outset. In these instances, the report claims there was "insufficient evidence to bring criminal charges, particularly when weighed against other matters under inquiry by WSPF [Watergate Special Prosecution Force] as to some of the subjects of the wiretap investigation."

What does this statement mean? How can there be "insufficient evidence, particularly when weighed against" something else? If insufficient evidence existed, there was no point in weighing the matter further. If sufficient evidence existed, what "other matters" would have warranted dropping charges involving such a serious infringement of civil liberties? This smoke screen of words raises serious doubt about the legitimacy of the Prosecutor's decision.

The report outlines another decision which, to me, has disturbing implications—the policy not to bring additional charges against persons already convicted of a "serious crime." I do not advocate the unsavory prosecutorial tactic of "overcharging" a defendant with every possible offense in order to force a favorable plea bargain. But that is quite different from ignoring separate and distinct episodes of criminal conduct, as the Special Prosecutor tells us he did.

The only justification given for this policy is that concurrent sentences would probably have resulted from prosecuting the same person for several different crimes. But concurrent sentences are not imposed in every case. Also, what if the single "serious" conviction is reversed on appeal?

This policy produces a situation in which a public official who commits twenty crimes receives no more black marks on his public record than an official who commits only one. So deceptive is this policy that the public cannot tell if failure to prosecute resulted from too little evidence or from too much.

For the Special Prosecutor, speed and efficiency seem to justify the policies of single prosecutions and extensive plea bargaining. But one must understand the cost of these policies: the information about official crime consequently lost to the public, and the damage to the important civic sense that justice has been done.

Perhaps the real reason for the thinness of the report lies in a casual remark made to me by Special Prosecutor Henry Ruth. He said that full disclosure was less than important because the American public (except, perhaps, in my district), had rapidly lost interest in Watergate. I found that remark deeply troubling. The Special Prosecutor's mandate was to pursue the responsibilities of his office regardless of pressure from anyone—the President or the opinion polls. Also, I do not think that Americans are indifferent to efforts to bring high public officials to justice.

One could detail a host of further inadequacies in the report, the sum of which may create the impression that we still operate a dual system of justice in this country—one for the highly placed and one for the thousands of ordinary citizens convicted of crimes. □

*Tapes from the Executive Office Building were of very poor quality; some portions had to be listened to nine or ten times. Tapes were reviewed by at least three people on the Judiciary Committee staff.

The General Services Administration has estimated that under the Presidential Recordings and Materials Preservation Act they would require an average of twenty minutes to transcribe each minute of tape—ranging up to sixty minues for a minute of sensitive subject matter on tapes with poor audio quality.

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ECUADOR: RAGS AND RICHES

PENNY LERNOUX

Riobamba, Ecuador

As the Pan American Highway winds down through the Andes of central Ecuador, it passes a small town called Sicalpa, which quickly disappears from view. There is nothing to lure the traveler off the paved highway onto the town's potholed dirt road. The Indians are ragged and dirty, not the least picturesque; even the Church, which is a tourist attraction in Ecuadorian villages, is here run-down and architecturally disappointing. Beneath Sicalpa's dusty, somnolent exterior, however, lies a seething snake pit: the town, in Chimborazo Province, is at the center of the long struggle for Indian land rights in Ecuador.

All of Sicalpa's inhabitants have some Indian blood, but in Ecuador there is a rigid class distinction between the *mestizo*, who is part white and who wears shoes, and the barefoot untouchable Indian, who is "not a human being but a beast of burden." The *mestizo* is in turn exploited by the white estate owner who uses him to bully, beat and kill the defenseless Indians. In Sicalpa, however, there are disgruntled *mestizos* to side with the Indians and the town thus divides into camps for and against the untouchable barefoots and their local spokesman, Father Delfin Tenesaca, an Indian priest alternately described as a "Communist agitator" and the "Indians' savior."

Two Sicalpa youngsters explained all this to me as we picked our way along a roller-coaster jeep track to Miraflores, one of Sicalpa's satellite Indian villages where Father Tenesaca was holding a consciousness-raising session. Miraflores is perched on a hill, a small cluster of one-room thatched huts where twenty families live. To reach the village without falling, one must run up and down the almost perpendicular hills, copying the half-trot of the beasts of burden.

Father Tenesaca is no firebrand, as was the Colombian revolutionary priest, Camilo Torres. A small quiet-spoken man, he discusses the feudal land structures around Sicalpa in calm and reasoned terms. Like his fellow Indians, he has been beaten and jailed by the large landowners, his life threatened innumerable times. But Father Tenesaca does not advocate a violent uprising because he thinks it would not solve the Indians' problem. An Indian uprising can always be put down by the police or the army, which has a tradition of killing Indians that goes back to the first rebellion in 1770. But a premonition of change is in the air, now that the Indian realizes that he is a human being and that the landowner has no God-given right to use him as a beast of burden. "We are beginning to open our eyes and to realize that we have a right to a better life than our ancestors," said Miguel Angel Estrella, a 23-year-old Indian who remembers as a child working sunrise to sundown without wages on a large hacienda.

"I have only a half acre to feed my family, and all my children but one died because there was not enough to eat," added Segundo Tenelima, a haggard 32-year-old. "But I will never go back to work on the hacienda. They beat me. They paid me only 28 cents a day. I will never go back."

Therein lies the fear of the landowners, who see themselves simultaneously threatened by agrarian reform on one side and the loss of semi-slave labor on the other. In the Sicalpa area there are now seven legal disputes before the Ecuadorian Institute of Agrarian Reform and Colonization (IERAC). The 2,000 acres the Indians are claiming are not many compared to the 25,000 acres of the landowners' local "cooperative," but they symbolize the long-feared awakening of the Indians.

New petroleum riches notwithstanding, Ecuador remains one of the poorest, least developed nations in Latin America. Visitors who look behind the plush villas rising in Quito will see miserable Indians bent double under loads of wood and trotting up and down the capital's back streets. Ecuador's rags-to-riches story since oil was discovered in the eastern jungles is the story of a privileged few, the 7 per cent of the population who receive 50 per cent of the country's income. The Indians, who make up 36 per cent of the 6.8 million inhabitants, have never seen a penny of the millions of oil dollars that have been pouring into government coffers since mid-1972. In fact, few know of the existence of oil. According to a recent survey by the University of Ecuador, 70 per cent of the highland Indians do not know the name of their country or of its President, or the colors of its flag.

The Indians continue to eke out a subsistence existence in the Andean sierras or form part of the burgeoning marginal populations of Quito and the banana port at Guayaquil, which boasts the worst slums in South America (not even the shantytowns ringing La Paz, Bolivia, can compare). Although change is coming to some areas such as Sicalpa, that is largely because of the work of people like Father Tenesaca and his reformist bishop in Riobamba, Msgr. Leonidas Proano. Most of the other Indian provinces have not altered since the Spanish conquest.

As in Venezuela, which is Ecuador's oil tutor, "sowing petroleum" in the countryside is an empty phrase, although the military government and everyone else seem to agree that the agrarian sector, with 70 per cent of the country's marginal population, is Ecuador's foremost problem.

While the three-year-old military regime has had more money to spend than any previous government, its agricultural policy is no more successful than that of its predecessors because of the large landowners' grip on national politics. Appearances to the contrary, Ecuador is not governed by the military but by the ranchers who control most of the political parties and are allied with the interests of the large Quito and Guayaquil import houses that dominate Ecuadorian industry. Any government that tries to restrict the privileges of this group soon finds itself out of a job. That happened to the previous military junta (1963-66), which was overthrown for attempting a mild agrarian reform. Ecuador's current President, Gen. Guillermo Rodriguez Lara, nearly met the same fate last September when a group of right-wing military officers was encouraged by the landowners-importers to stage a coup but bungled it so badly that Rodriguez was able to keep his tenuous hold on the Presidency.

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A backward banana republic until the 1972 oil boom, Ecuador is more retarded politically than any other South American country, with no more than 10,000 of its people able to distinguish between a conservative and a Communist. Thus it is relatively easy for the educated elite to make and break governments; the coup average in Ecuador is one every three years. Any move to alter the inefficient pattern of land tenure is quickly squelched because the government of the moment will immediately back down when threatened with a coup (which eventually happens anyway). So thirty-nine years after the first attempt at agrarian reform, 0.1 per cent of Ecuador's farms, all larger than 2,500 acres, still occupy 14.4 per cent of the arable land, while 74 per cent of the farms, each less than 12.5 acres, cover only 10 per cent.

Because of the severe political pressures, agrarian reform laws in Ecuador have always emphasized productivity rather than social necessity. Even so, very few haciendas have been expropriated because they were underproductive. In the decade between 1964, when the previous military regime decreed an agrarian reform law, and 1974, 80 per cent of the land distributed to poor peasants formed part of colonization schemes on government-owned property. The remaining 20 per cent that was "expropriated" consisted primarily of unfertile hacienda lands "rented" to the Indian *huasipungo.* An outdated remnant of Spanish colonial rule, the *huasipungo* system forced the Indian peasants to work on the hacienda without wages for so many days per year (usually 365) in return for the use of a small grazing pasture and the right to build a miserable one-room shack. The 1964 law supposedly abolished this system but in fact worsened the condition of the *huasipunguero* by pushing him onto unproductive land while making him pay for the right to graze his animals on the pasture he had previously occupied. The payment of a daily minimum wage for hacienda labor was and is more often than not a legal fiction. In Chimborazo Province in central Ecuador, for example, some 2,000 Indians rebelled in protest against the landowner's failure to pay any wages for more than a year. Two Indians were killed when the army put down the uprising.

Government funds for agrarian reform programs were similar fictions, the money being either progressively reduced or never authorized. Nevertheless, Ecuador's outraged Chamber of Agriculture, spokesman for the large landowners, declared that the 1964 law threatened "political domination over the agricultural sector instead of justice and technology," although technology in real terms meant fences, the value of which was greater than the total for all other agricultural machinery and equipment.

Like its predecessor, the newest agrarian reform decree, announced in 1973, emphasizes productivity and colonization schemes, and puts no limit on the size of individual holdings beyond a vaguely defined production scale for different agricultural zones. Given the venality of local land reform officials, it remains a simple matter for the large landowner to escape expropriation on the basis of productivity. At La Magdalena ranch in northern Ecuador, for example, where three generations of peasant cooperatives have fought unsuccessfully for land, expropriation proceedings are locked in a bureaucratic labyrinth because the local IERAC representative has certified that the 3,780-acre hacienda is productive. The certificate is based on statements by local grain merchants, who attest that La Magdalena is a regular wheat supplier and efficient producer, and by an on-the-spot inspection of 1,215 Holstein cows and 600 sheep. It so happens that Freile Barba, whose family owns La Magdalena is also an important grain merchant in the area. And according to the peasant cooperative, many of the cows were brought in from another Freile ranch, San Clemente, and the sheep from a third Freile estate, La Merced.

All told, the Freiles own four ranches covering a large chunk of the northern and eastern highlands of the province of Imbabura. Yet many of the 700 people who subsist on or around La Magdalena do not own a square foot of land. Maria Juana Ibaza, 44 and the mother of two fatherless children, depends entirely on the 50 cents she earns for a six-hour day milking forty Magdalena cows. The daily yield of these cows is 160 quarts, which the ranch sells in the nearest city for $19.20. But Maria Juana and her children, crowded into a one-room hut with ten other people, are so poor that they cannot afford even potatoes. There is no running water, no electricity, no bathroom facilities, no medical attention. When the people in the hut get sick, they lie on the floor and wait. "We either get better or we die," she explained.

Maria Juana's neighbor, Leonidas Tabango, is no better off. True, he owns 8.7 acres of land, but they must support him and the families of his three sons. The Tabango family originally held 18.7 acres under the *huasipungo* system, but when Leonidas's father died in 1962, the *patron* demanded the return of 10 acres or $480, an enormous fortune for such impoverished people. When the money was not paid, the landowner sent a tractor to destroy the corn and potatoes planted on the parcel.

Protest frequently is useless. Although expropriation proceedings were under court study in 1971, a battalion of forty armed police attacked the peasants at the Freile family's behest. Gas bombs were thrown, the Indians' huts raided and two children killed. Yet so land-hungry are these peasants that they persist. Since the productivity measure for expropriation was vetoed, the peasants' cooperative is trying another provision of the agrarian reform law that authorizes expropriation if natural resources are monopolized by a single family in an area under heavy population pressure. A study by the National Planning Department has apparently confirmed the cooperative's claims, but the department's report has not been issued because it lacks "the appropriate official's signature"—a plausible enough explanation in view of the quantities of red tape at the Planning Department, which has outgrown a new 12-story skyscraper since the oil began to flow.

Far from encouraging production, the regime's timid measures are achieving just the opposite: agriculture is turning in the worst performance of any sector in the economy. The wheat harvest in 1973, for instance, was only one-third what Ecuador grew in 1970. The government has twice this year diverted wheat shipments destined for Peru in order to span the gap between declining production and an oil-fueled increase in consumption, plus the high 3.4 per cent birth rate. Some of the decline is caused by speculators, but the principal reason is that the large landowners refuse to increase plantings, even when the government offers subsidies and duty-free fertilizer imports. The

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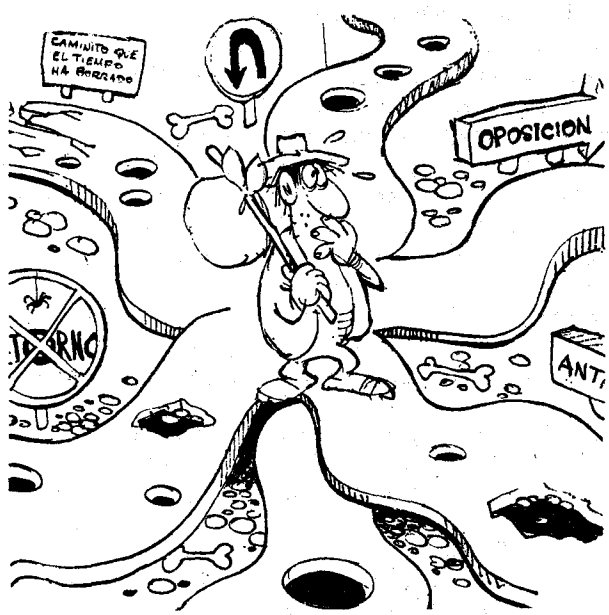
Guayas River Basin on the Pacific Coast alone could produce enough food for 20 million people, according to the Food and Agricultural Organization (FAO). But as long as there are food scarcities, with corresponding price increases, inflation will fuel popular discontent. Weak as the Rodriguez Lara regime has been, it is not sufficiently reactionary to suit these landed interests, who hope that a change of government would bring a member of the ranching oligarchy to power. The charge that agrarian reform is to blame for Ecuador's poor harvests simply does not hold up, not when the law offers so many loopholes against expropriation and when 86 per cent of the land distributed since 1972 has been in colonization schemes in the jungle or the northern swamplands where no wealthy estate owner would set foot.

"Why is there hunger if the oil is ours?" demands the wall graffiti in Quito. "Because the rich get richer and the poor, poorer," writes Clotario, columnist for the conservative Quito daily *El Tiempo*. The statistics of poverty are such that the National Medical Congress wants the government to declare a "national emergency." Sixty per cent of the children suffer from malnutrition, 33 per cent of the people are illiterate, and 70 per cent are without running water, sewage systems, medical attention or decent housing. These are the marginal Ecuadorians, the 52 per cent of the labor force that is unemployed or



Cartoon by Roque, Comercio (Quito)

Ecuador's Average Citizen at the Crossroads

underemployed. Nevertheless, the Ministry of Health states that "the situation is not so bad compared with India, where people are starving to death."

Maybe not, but it is hard to imagine worse conditions than those in Chimborazo Province, which has the highest concentration of landholdings, the largest Indian population and the worst standard of living in Ecuador. Although the land is majestic, with towering, snow-capped volcanoes and deep, green valleys, the people are dirty, sullen and bent, the beasts of Sicalpa and Father Tenesaca. At the Saturday market in Riobamba, Chimborazo's capital, the plazas overflow with this mass of Indian poverty that has trotted long miles across the Andes in order to sell a few vegetables or eggs to the white and *mestizo* townspeople. (Although the peasant may keep chickens or a cow, eggs and milk are too precious for his consumption. Only by selling them can he buy such necessities as salt and kerosene.)

Many of the Indians earn a few cents as pack animals for Riobamba housewives, staggering barefoot through the muddy markets with a load of food or firewood on their backs. The fair also is the one day in the week allowed for such luxuries as a piece of fruit and for getting drunk on a cheap *chicha* corn brew fermented with such toxic substances as human excrement. The Indians drink to forget the misery of the hovel that awaits them at night—a windowless hole in the ground topped by a thatched roof where up to fifteen people sleep in the dirt together with the family's pigs and guinea pigs, the Indians' only source of occasional protein.

Although Chimborazo is only 60 miles from Quito, 83 per cent of the population never sees a doctor. Malnutrition and the lack of hygiene among the province's 220,000 Indians are so severe that six out of ten children die in their first year. About the only thing the Chimborazo Indian does not die of is old age.

Barely touched by agrarian reform, Chimborazo is Ecuador's worst example of latifundia-minifundia, or large landholdings and tiny plots, with farms of more than 1,250 acres hogging 68.4 per cent of the land, while farms under 12 acres, which comprise 82.7 per cent of the total number of parcels, are squeezed onto 8.6 per cent of the land. Despite the poverty and the feudal land structures however, Chimborazo has one advantage over other rural areas, and that is the courageous Catholic laymen and clergy working with Bishop Proano, the only progressive in Ecuador's otherwise conservative hierarchy. Since Proano came to Riobamba in 1954—and startled the white ranchers by actually shaking hands with the Indians—the beasts of burden have gradually awakened, forming cooperatives and communes, demanding better wages and pressuring IERAC to recognize their land rights. The bishop is hated by the Chimborazo ranchers who rightly blame him for telling the Indians about minimum wages, encouraging them to learn to read and write, and starting the province's first agrarian reform by giving the Indians 27,300 acres of Church lands. As an old Indian woman pointed out, "Only since Taita Amitu Obispu [an affectionate Quechua title for Proano] has come has the eye begun to see and the mouth to speak."

A soft-spoken, timid-appearing man who follows Gandhi's nonviolent resistance techniques, the "Bishop of the Indians" has had a number of run-ins with the local landowners, including some brutal clashes in which the unarmed peasants were injured and killed. But dealing with Proano is like wrestling with the Tar Baby: the bishop sticks to his objectives like glue.

Three years ago, for example, he sent a priest to work with an Indian community at Iltarz that had received legal recognition from IERAC of a claim to communal lands earlier annexed by the neighboring hacienda. Through the priest's mediation the rancher verbally agreed to respect

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the Indians' land rights, but as soon as the peasants started digging holes for a forestation project, they were set upon by an armed band employed by the estate owner. Twenty-one Indians were injured, some seriously. A young peasant woman was tied by her pigtails to the tail of a horse and dragged over the land at a gallop. When her father protested, he was knocked to the ground, a bit was forced into his mouth and he was ridden like a horse by one of the armed assailants.

Proano no sooner learned of these atrocities than he started a nationwide publicity campaign, including television coverage, that eventually ended in the release of the six peasants imprisoned by the landowner and restoration of the Indians' communal property.

Last year during a similar confrontation at the village of Toctezinin, the police locked up Proano's vicar general by mistake after beating the peasants and killing one of them. The vicar general refused to leave the Riobamba jail unless the Indians arrested at the same time were also freed. The ensuing bad publicity caused in this deeply Catholic country by the spectacle of a high Church dignitary cooling his heels for three days in jail was sufficient to provoke a high-level government inquiry that eventually confirmed the Toctezinin Indians' land rights.

Nowadays Bishop Proano is a welcome guest at Toctezinin, but he is not looked upon as a miracle worker who can instantly solve the Indians' problems. The Toctezinin peasants have gone through a long calvary that has taught them the value of their own leadership and community spirit. That is precisely what the bishop wants and what the ranchers fear. In many parts of Chimborazo it is no longer possible for the landowners to force an Indian to work on the hacienda with no wages for a month simply because he has walked down a road bordering an estate. The Indian now knows that he is not trespassing on private land, a crime for which his services can be indentured, but that like every other Ecuadorian citizen he has a right to use a public road. This may not seem like much of an advance in the face of the poverty and land structures in Chimborazo, but it is an enormous improvement over a few years ago when the Indian dared not even speak in the presence of a white man.

While pressure from a dedicated, influential group like Proano's clergy can cause a gradual change in a limited area, it cannot alter the inbred belief of the white and mixed populace that Indians are despicable animals.

> Priests and sacristans, mayors and governors, political chieftains, municipal officials, whatever their color, all are masters of the Indian. Everyone has the right to exploit him. The Indians are requisitioned like beasts; they are taken in long lines roped together over great distances for forced labor, to collect garbage in the cities, to repair the roads, to serve the convents and the garrisons, to carry arms in times of war and for many other necessities in times of peace, to carry the piano of Minister So-and-So from the coast to the mountains or the enormously heavy equipment for the sugar mill of Governor So-and-So, and always, always in the name of the republic and by authority of the law.

So wrote Ecuadorian author Abelardo Moncayo in 1954. His description still applies.

A Quito restaurant will sell food to an Indian, but only if he takes it off the premises, because his presence might offend the white customers. Said a bitter Indian: "When they don't let me enter a restaurant but want my money, when the newspapers won't publish our letters but write editorials about our problems, they make me feel more Indian, and for this I thank them because it makes me realize that my country does not belong to me. It belongs to them."

Even the Indians' folklore has been expropriated by the white man. The annual Yamor Indian ceremonies in Otavalo in northern Ecuador used to be a time of popular celebration, but they have been converted by white promoters into a tourist attraction held within the confines of a local school. The tourist can afford the 40-cent entrance fee but not the Indians. So what was an authentic cultural experience has been reduced to another means of exploiting the Indians.

Unable to earn a living on the land, the Indian eventually migrates to the cities where he may find occasional employment in the booming construction industry that is building expensive office high-rises and luxury homes as fast as the country can import cement. Or he may drift to the coast for the banana harvest and eventually settle among the black populace of Guayaquil's slums, where two-thirds of the inhabitants are immigrants.

Unlike the countryside, where some social values survive, slum life quickly destroys the family unit, and another round of poverty begins with abandoned children and fatherless families. In Quito, there are 6,000 shoeshine and other working boys who are sent onto the streets as soon as they reach the age of 4 or 5. With seven to thirteen children to support and no aid from the children's various fathers, the slum mother must depend on the earnings of her sons. These slum boys bring home 20 to 40 cents a day, while the mother either washes clothes at 5 cents a dozen pieces or sells food or other items in the native markets. By the time the boy is 15, he has run away with a girl, only to abandon her after the birth of one or two children.

Very few slum inhabitants ever climb out of this circle of misery. They are undernourished and therefore frequently mentally retarded, have no chance of even a primary education and in any case will die of some disease before they are 40. (So unhygienic are conditions in Quito markets, for example, that 75 per cent of the food sellers harbor intestinal parasites, according to the Department of Municipal Health.)

As in most Andean cities, the slums of Quito cling to the top of the mountain bowl while the residences of the wealthy and middle classes cluster below, but since the advent of petroleum the contrast between top and bottom has greatly increased. While wizened Indians fight over rotting food and empty bottles at the municipal garbage dump, down below in the shady avenues rich teenagers race new motorcycles past shops crammed with imported luxuries. Flashy foreign cars crowd the streets, turning the narrow entrance to the colonial section of the city into an hour-long bottleneck. Ecuadorians who were grateful to own a jeep only five years ago now boast two chauffeur-driven limousines, one of which is usually a Mercedes. If the streets of Quito are not paved with gold, as some Ecuadorians confidently predicted they would be at the start of the oil boom, there is plenty of money moving over the new

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highways. The government's annual gasoline subsidy alone runs to $120 million. (Since Ecuador does not yet have its own refinery, the government must make up the difference between the cost of imported gasoline and internal prices; otherwise, car owners will protest.)

Even in Ecuador, however, there is a limit to such spending sprees. Although government income has quadrupled since the oil was found, a hugely inflated budget, the upper classes' voracious appetite for expensive imports and a decline in oil production have produced a $120-million deficit in the balance of payments. Rodriguez Lara made a brave attempt to control the oil orgy in August by restricting the import of automobiles and slapping a 60 per cent duty on luxury items and a 25 per cent duty on imported capital equipment used to assemble such necessities as television sets and synthetic textiles. But he quickly backed down after the attempted coup in September, firing the finance minister, halving the luxury import tax and abolishing the capital goods tax.

Rodriguez Lara could hardly do otherwise with a government that is as shaky as a house of cards. Pleasant enough in private, the short, rotund "*Bombita*," or "Little Balloon" as he is nicknamed, has never been able to attract any popular support because, except for a nationalistic oil policy, his government has not initiated any reforms to gain that support. Some grandiose infrastructure programs have been started, of course, but hungry people are not interested in four-lane highways or petroleum refineries. On the other hand, they do understand unemployment and are experiencing inflation, which has been galloping along at 30 per cent per year under petroleum's influence.

Less than 5,000 jobs have been created in oil-related industries because they are not labor intensive. Despite the flood of imported capital equipment, industries on the whole are operating at 53 per cent of capacity. Repeating the classic error of developing nations, Ecuador has encouraged the growth of a series of expensive assembly plants to satisfy the sophisticated tastes of a small consumer society able to purchase such goods. Once this demand is met, sales drop, factories begin to lose money and jobs are eliminated. The large consumer market on which these industries are premised simply does not exist in a nation where the average annual per capita income is $280.

Unimpressive as the Rodriguez Lara administration may be, impartial Ecuadorian and foreign observers agree that the situation would have been much worse had the military allowed the greedy politicians to get their hands on Ecuador's new oil wealth. While the armed forces take 50 per cent of the oil royalties, at least corruption is only about one-third what it was during the previous civilian government of perennial President José Maria Velasco Ibarra, elected five times and overthrown four. Scandals involving cabinet ministers and even a former President in bribes and embezzlement highlighted the final months of Velasco's last government before he was deposed in February 1972, just six months before the oil started flowing. Such was the corruption at one point, recalls a U.S. oil executive, that the publicly acknowledged minimum bribe was $500,000.

Fearful of appearing similarly corrupt, the military immediately embarked on a "moralization" campaign to clean up government while hitting the foreign oil companies over the head. Several of the disgruntled companies later blamed Texaco-Gulf, whose jungle discoveries started the oil rush, for failing to prepare the Ecuadorians for the complex economics of petroleum. Although the consortium began drilling in 1964, it did little to enlighten successive governments on the facts and figures of production, and by the time the figures were finally made available, the Ecuadorians had convinced themselves that no foreign oil company could be trusted to present a factual report.

The newest and smallest producer in the Organization of Petroleum Exporting Countries, Ecuador also took the toughest line with the companies, upping the price per barrel from $2.56 to $13.90 in less than seventeen months, increasing taxes and red tape and reducing contract areas by as much as 80 per cent. Constant changes in government oil policy, the incidence of dry wells and a general feeling among the companies that Ecuador was an "ungrateful upstart" caused most of the majors to pull up stakes, leaving only Texaco-Gulf and Cayman behind with sizable investments. Texaco-Gulf has been recouping its $300-million investment since August 1972, when the first barrel was pumped to the Pacific Coast over the consortium's 335-mile pipeline. Cayman, which has invested $85 million to date, has capped its jungle wells until the government makes a decision on a new model for oil contracts (probably something similar to Peru's fifty-fifty division with the oil companies).

As in other sectors, Rodriguez Lara was forced to backpedal on the government's oil policy this year when daily production plummeted from 210,000 barrels to 125,000 barrels because Texaco-Gulf claimed it could not market Ecuadorian crudes at $13.90 a barrel. After sacking the left-wing natural resources minister, Rodriguez reduced the price by 43 cents a barrel to bring Ecuadorian petroleum into line with OPEC prices. Since Ecuador now depends on petroleum for 55 per cent of its income, the government is a prisoner of the oil wells with no economic backup from other sectors to see the country over a temporary production decline. Bananas, which used to supply the largest source of foreign exchange, now account for a mere 18 per cent of the country's earnings and are in trouble anyway because of stiff Central American competition.

It is a surrealistic situation at best because, unless new fields are discovered, Ecuador's jungle oil reserves will begin declining by 5 or 10 per cent in 1980 at the current rate of production. And new fields will not be discovered unless the foreign companies are invited to return on their own terms. CEPE, the three-year-old state oil enterprise, could perform this job by buying foreign drilling equipment and know-how, just as the oil companies do. But CEPE does not have the necessary money for exploration because the national government is itself in the red. And so the merry-go-round spins on, with public opinion still convinced that there is nothing particularly complex about administering sudden oil wealth, only those fools in the Presidential palace just don't know how to do it. "Petroleum? That's Easy!" headlined one Ecuadorian magazine in a typically simplistic explanation of oil economics. Over at

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Quito's National Polytechnical School, meanwhile, only one student is specializing in petroleum, compared to 4,578 at the philosophy faculty.

The military may occasionally have some doubts about its oil policy, but there is no doubt in the minds of the politicians that they could do a better job. The general feeling in political circles is that the coup attempted in September heralded the beginning of the end of the Rodriguez government, but whether this means an early return to civilian administration is not at all clear. Several of the most powerful generals appear determined to enact a few social reforms, with or without "*Bombita*," before relinquishing power. For that matter, some of the civilians are having second thoughts about the inevitable return of the old political *caudillos*. Quito's prestigious daily, *El Comercio*, which hardly could be described as an apologist for the military regime, recently pointed out in an editorial that "there is nothing resembling authentic, effective political movements that are well-organized and cohesive" in a country with twenty-five political parties but no political consciousness.

The lack of political awareness is of course a direct outgrowth of the high illiteracy rate and the generally low standards of living, but it also stems from a social-political system that forces the educated minority to conform to outdated formulas better suited to the fake liberalism of 19th-century Latin America than to the needs of an emerging oil state in 1975. And with conformism comes disillusion. No matter how idealistic or revolutionary the undergraduate, by the time he leaves the university to get a job, he does not want any part of politics, either inside the system or out. Consequently, government by the minority for the majority is left to such old hacks as Velasco Ibarra, 82, a well-meaning, administratively inept demagogue whose campaign oratory always wins elections. Anecdotes about Velasco's promises are legend, including one in which he promised a city a river after first offering a bridge when the city had no river.

Velasco is not the only colorful character in Ecuador's political cast. There is also Carlos Julio Arosemena, who started his Presidency (1961-63) with some promising reforms only to fall victim to his embarrassing adventures while on the bottle, including shooting a barman instead of the lampshade on a homosexual's head, falling down dead drunk at the airport on the arrival of Chilean President Jorge Alessandri and peeing on a banquet table as a demonstration of his regard for the U.S. Ambassador, one of his guests.

Then there is Asaad Bucaram, a rug merchant from Guayaquil who, as a shoo-in for the 1972 Presidential elections, was one of the principal causes of the military coup. A younger version of Velasco, Bucaram likes to stump the Guayaquil back streets making illiterate speeches. Two other regular Presidential contenders, representing the landowners' interests, Camilo Ponce, who governed the country between 1956-60, and Galo Plaza (1948-52), are best forgotten and easily so, since they did nothing. Otto Arosemena (Carlos Julio's nephew), on the other hand, will go down in history for imitating Khrushchev's shoe-banging act during the hemisphere summit on the Alliance for Progress in 1967 before returning home for a petroleum orgy of foreign bribes and illegal contracts.

With such to choose from, it is not surprising that many Ecuadorians prefer the military government's "diffuse centrism with timid manifestations of social consciousness" to worse evils from the past. But since conciliation is a sure road to another coup in Ecuador, the odds are against Rodriguez Lara's survival. Already, Velasco, Carlos Julio Arosemena, Plaza and Ponce are jockeying for position. □

Frank Talk on the Two-Party System

SEN. CHARLES McC. MATHIAS, Jr.

Washington

Pollsters, whose results may generally be viewed with some calm, can occasionally strike a nerve. For example, the finding which showed that politicians as a class rank below garbage men in public esteem may leave Presidents and Kennedys unruffled, but it is symptomatic of a deep dissatisfaction with the political process now embodied in the stumbling two-party system.

The two-party system, as we have known it, is clearly the best system for this country, but our experience has shown that it isn't necessary always to have the same two parties. More than 100 years ago, a situation very much like the one in which we now find ourselves gave birth to the Republican Party. Today, people have many pressing daily concerns which the political parties are largely ignoring as they choose candidates and try to excite the electorate. I don't think this can continue without creating serious problems in our whole political system.

The parties have failed on the issue of jobs. For the 8 million Americans who are today unemployed, the promise of the Employment Act of 1946 is an illusion. Unemployment in turn places stress upon family life and contributes to the despondency that has overtaken millions of Americans.

The parties have failed to enact meaningful welfare reform. In the last ten years our nation's welfare expenditures rose from $5.6 billion to more than $37.7 billion. One person in every six in New York City is on welfare, and that bleak statistic is repeated in many parts of America. The welfare system has wasted money. But more tragically it is also wasting human lives. We can provide a job for everyone able to work, and we must. For those unable to work a negative income tax can treat poverty for what it

Sen. Charles Mathias, Republican of Maryland, has served in the Senate since 1960. He is a member of the Judiciary, Appropriations and District of Columbia Committees.

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is—an economic disability rather than a social disease. Instead of tearing families apart we can use jobs and income maintenance to give a sense of hope to those who are now captives of economic distress.

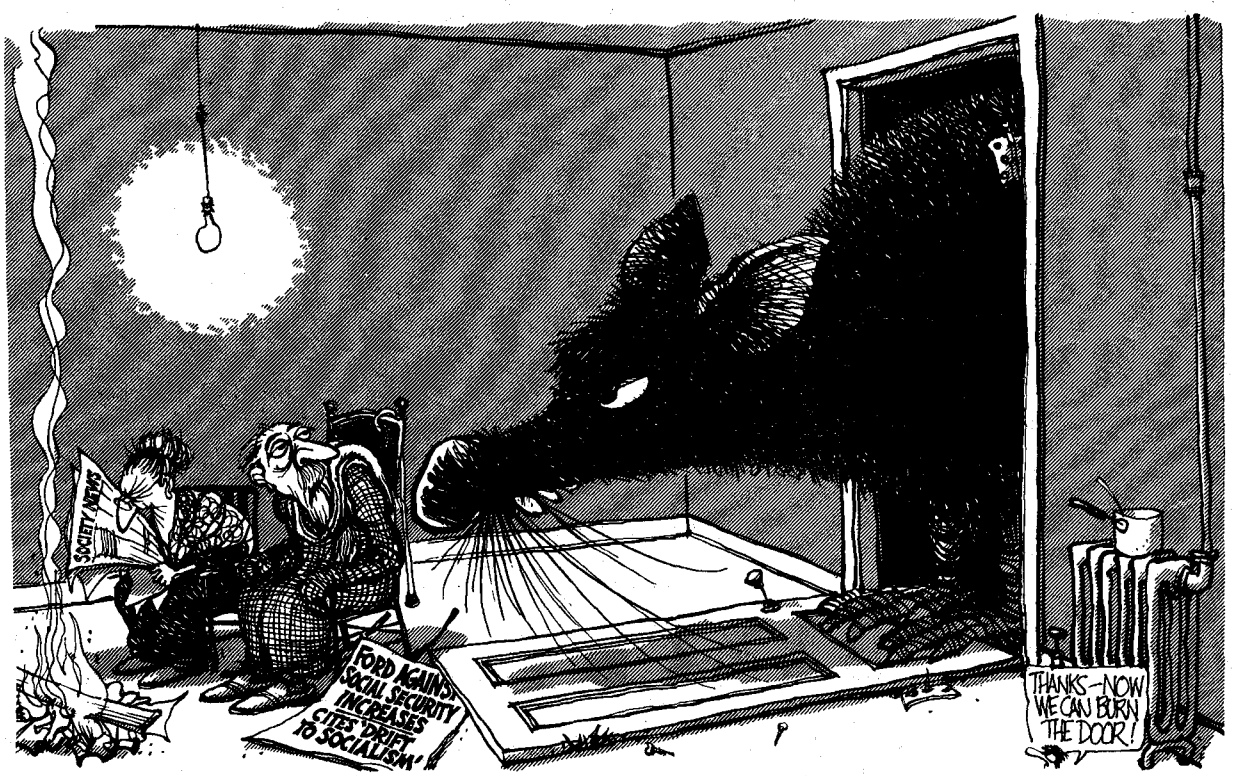
The parties have failed on the issue of crime. Under the Kennedy and Johnson administrations, major crime rose 148 per cent. The repressive measures enacted by the Nixon administration have not been successful. While a high percentage of legitimate businesses may fail each year, the tragic fact is that crime does pay. Most criminals are either not apprehended or suffer no penalty if caught and convicted. The high rate of recidivism demonstrates that our prisons are not rehabilitating people or making America a safer country. Perhaps we should provide industrial-type employment within the prisons so that workers can learn meaningful jobs and support their families while they are confined.

The parties have failed on the issue of tax reform. In a recent year a major corporation which earned tens of millions of dollars in profits paid less tax than a woman who cleaned the executive toilets. Other American corporations pay more in income tax to foreign governments than they do to their own. Taxes are not based upon how much you earn but rather upon the segment from which your earnings are derived. Senator Hatfield has proposed a simplified tax system with no loopholes; it has been given a bipartisan burial. The time has come to make tax reform a number-one domestic priority.

Both parties have failed to deal with the federal bureaucracy. I am told that the Interstate Commerce Commission has more than 43 trillion railroad rates on file—with no index. Businessmen are confronted each year with more than 50,000 pages of regulations in the *Federal Register*. Unreported and undisclosed ex parte contacts from businesses, from Capitol Hill and from the White House taint the regulatory process. Administrative costs and staff efficiency have not been properly studied. The Civil Service system needs a thorough review to measure its effect upon efficiency. The General Services Administration should be examined from top to bottom to see whether it saves us money or provides a bureaucratic morass. Unnecessary red tape, delays and busy work at the Federal Housing Administration frustrate the nation's housing goals. Unfortunately, however, regulatory reform gets little more than lip service in Washington, even though America's consumers could be saved billions of dollars each year.

No one can doubt that the parties have tragically failed to deal with the problem of race relations in America. Racial tensions today may be worse than they were a decade ago. Louisville and South Boston are not unique. The bussing controversy has created tensions and hostility where none existed before. Neither party is willing to advance new alternative measures to assure racial equality without resort to reverse discrimination and race quotas which could undermine our goal to become a color-blind people.

The parties have failed to address the quality of life in urban America. Urban renewal has torn up neighborhoods and repackaged the slums in glass and concrete cages where a man cannot get his shoes fixed or buy a beer. We have failed to provide band concerts, historic preservation and planning on a human scale. I believe that cost per square foot should not be the primary criterion for rebuilding our cities. If cities of the future have us living with



Oliphant, The Denver Post

"Let Me Guess . . . You're Either Inflation or Recession, or Illness, or Privation, or Suffering, or the Dire and Horrible Peril of Galloping Socialism."

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artificial grass under giant domes, there may be air conditioning and all the plastic amenities of modern living; but without trees, grass, wind and rain, without buildings on a human scale, life will not be enriched. Chickens may survive in automated hen houses, but man will not. Even now, our highways are filled on weekends with people trying to escape the sterile life of the city and renew their communion with nature. Our goal should be to develop cities so that they will be suitable for the full expression of human potential.

While regional planning and metropolitan government provide certain economies of scale, they are often too remote and unreachable. They make people feel powerless and frustrated. Parks, recreation, zoning and other matters of neighborhood concern can be left to neighborhood control—an important first step if we are to turn service areas into communities.

But the greatest failure of our political parties is the failure to improve the significance of human life. American youth is protesting the dehumanization of society. The young are on drugs and their mothers on Valium. They live in look-alike houses, eat artificial food, and often end up in meaningless jobs. There is a loss of community, a loss of self-reliance and a loss of purpose.

In foreign policy, in health, in education and many other areas the parties have papered over problems and failed to develop new and imaginative policies which can make for a better country. When the people have looked to their political institutions, the parties, for thoughtful and constructive approaches to their problems, they have been answered with bland rhetorical boiler plate or insulted with irresponsible thirty-second commercials. Instead of initiatives carefully crafted to meet the need, we get position papers crafted to avoid offense, larded with scraps of buncombe no more trenchant than the paste used to stick them together.

Like network television, the parties have followed public-opinion polls down to the lowest common denominator. The result has been insincerity, weaseling and hypocrisy, and the public has seen it for what it is. I believe we can no longer afford ideological reflexes, principles that are compromised to feed the alligators of the Left and Right, or candidates who are sold like soap.

I am a supporter of the two-party system. However, the inadequacies of the two parties have placed the system itself in peril, and there is no corrective effort underway. The prospect of suicide through irrelevancy would not even be a disturbing one, except that we have no clear idea of what political mechanism would take its place, structuring development of the nation's leadership in decades to come.

I do not charge that the American people are apathetic about the political process, merely about the parties as instruments. The anti-war movement, the consumer movement, the environmental movement and dozens of lesser, popular initiatives, all of them reflecting widespread concerns, took shape and gained influence without reference to party politics. Within this century, there have been times when the great political questions of the day were discussed and thrashed out in meetings down to the level of the local political clubhouse. Something happened, however, between the early decades of the 1900s and now. Today, should anyone be so impertinent as to raise some urgent national topic in such a forum, he would be ruled out of order or simply told to shut up, while the meeting got back to the serious business of seeing who had the most votes. Little wonder that Americans today view the political parties as hypocritical, concerned more with winning elections than solving issues.

Party alignment statistics bear this out. Figures collected over two decades by the University of Michigan's Survey Research Center show that those willing to call themselves Republicans have declined from 29 to 18 per cent; Democrats declined slightly from 44 to 42 per cent, and Independents gained from 24 to 37 per cent. The proportion of Independents rises, according to Gallup, with education, professional status and with every passing year. In the 18-to-24 group, 46 per cent identify themselves as Independents, 39 per cent as Democrats and 15 per cent as Republicans.

The Republicans, sliding ever more rapidly toward splinter status, should be particularly concerned, but it would be hard to detect that they are by viewing the present struggle for the party's Presidential nomination. The Ford-Reagan monologue, which results from a contest over the conservative vote, ignores not only Democrats but hundreds of thousands of Republicans. If either candidate thinks these people can be retrieved by a sudden reversal of rhetoric between the convention and the general election, he will have a rude awakening next November.

Democrats can take little comfort from their own status. Neck and neck with the Independents, and significantly below 50 per cent, Democrats increasingly must win votes from outside the party. Yet the game of musical chairs now being played out in primary election maneuvers seems to involve little more than a struggle for endorsements by existing party factions, religious or ethnic groups and labor.

Indeed, both parties may have become permanent captives to powerful constituencies who subordinate national needs to partisan logrolling, government contracts, grantsmanship and scoring ideological points. When candidates must play to these interests there is little hope that their programs will add up to coherent visions of the nation's future.

November could find the nation's voters forced to choose between two men, each of whom has triumphed within his party and in the process lost the bulk of the electorate. More than one observer has longed for a choice on the ballot marked "None of the Above," but those in charge recognize that choice as far too attractive to be permitted on the lists.

It may be that the nation is eager for a new mechanism through which people can express themselves politically. If established parties do not supply an outlet for creative ideas, they will find their own channels. A fusion movement, to use a neglected term, could draw from the dissatisfied of both existing parties as well as from the vast pool of self-proclaimed independents. Its mission would be to give the public the kind of options it does not have in the present moribund party system.

The failures and limitations which have confronted the United States in recent years have not detracted from its basic vitality. I am convinced that our most significant time on the stage of history is still to come. Shortcomings

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which seem so significant to us at home shrink to insignificance in the view from abroad by comparison with the tremendous energy and wealth we deploy worldwide. This is a very great country, whose greatest goals may still be dimly perceived. I think there are people who want to participate in its greatness but who are frustrated now. They must have the chance to be as good as I think they are. □

'SIMPLE JUSTICE'

FROM *BROWN* TO SOUTH BOSTON

MAURICE deG. FORD

A remarkable book is about to be published. It is called *Simple Justice* (Knopf) and will be appearing in the bookshops soon after the first of the year. Written by Richard Kluger, a nonlawyer, it is an event in the law. *Simple Justice* is the definitive account, to date, of the struggle for black equality in America, a struggle which culminated in the Warren Court's 1954 decision in *Brown* v. *Board of Education.*

In times like ours, there are enormous pressures to abandon the struggle for desegregation. President Ford, now pushed from the Right by Ronald Reagan, has repeatedly reiterated his disapproval of bussing—the only way meaningful desegregation can be achieved in most Northern cities, housing patterns being what they are. Congress is backtracking in its support of HEW for desegregation. The social scientists are divided over the evidence on bussing. The constitutionalists are questioning how far a federal judge should go, especially in a situation like Boston. But *Simple Justice* does what a thoughtful work of history should do—it sets matters in perspective. Possessed of the perspective which Richard Kluger so ably gives us, it is very difficult to turn back from the dream of an integrated society which the Warren Court shared with Martin Luther King.

Brown v. *Board of Education* was not one but four cases, originating in Clarendon County, South Carolina, Prince Edward County, Virginia, the state of Delaware and Topeka, Kan. Richard Kluger, who spent seven years writing his book (it runs to 823 pages), was more than once tempted to relate in detail the grass-roots story of only one of these cases. But as he traveled to each of the regions in which the School Segregation Cases arose, it became evident that the fight for desegregation took on different aspects in the various locales. The Clarendon County case which reached the Supreme Court is named *Briggs* v. *Elliott*, but its real protagonist was the Rev. Joseph Albert DeLaine, son of a slave, who was fired from his job as a teacher and whose house went up in flames as a result of his civil rights activity. Kluger went to Clarendon County, riding over many of the same roads that Thurgood Marshall rode as a young attorney for the NAACP Legal Defense Fund, interviewed as many of the participants in the drama as possible, and is able to make us feel that we, too, were there when it all began. We are present also in Wilmington, as the Delaware case is brought before the courageous Collins J. Seitz, then chancellor of Delaware and now chief judge of the U.S. Court of Appeals for the Third Circuit. We are with the Rev. L. Francis Griffin, pastor of the First Baptist Church in Farmville, Va., and leading force behind the Prince Edward County case. As a 10-year-old, he had been informed that he was no longer welcome to play sandlot baseball, "told, with childhood's cruel candor, that such comradeship would have to end because his white friends' parents had decreed it." And, of course, we are in Topeka, where the suit was brought that gives *Brown* its name. There we soon learn that a white, Jewish civil rights activist, Esther Brown, had more to do with arousing the black community against school segregation than did the nominal black plaintiffs, Oliver Brown and his daughter, Linda.

Simple Justice is a magisterial volume. In addition to placing the reader on the scene at each critical moment as each of the School Segregation Cases wends it way toward the Supreme Court, Richard Kluger replays the historical record from the original sin of slavery to the passage of the Thirteenth and Fourteenth Amendments, to the gradual erosion of equality for the Negro through Supreme Court decisions in the late 19th and early 20th centuries. In a manner whose lucidity and humanity recall Anthony Lewis's *Gideon's Trumpet* (though *Simple Justice* is a far more ambitious enterprise), the author charts for the lay reader the principal judicial events on the road to *Brown*. Perhaps because he is not narrowly trained as a lawyer and therefore views decisions in the context of social history and judicial biography, Kluger presents a course in constitutional law of which many law teachers will be envious. We follow, for example, the path from the decision in the Civil Rights Cases of 1883, in which the Court held that Congress was not empowered to prevent "private" discrimination even by businesses said to be open to the public at large, to Justice Henry Billings Brown's infamous majority opinion for the Court in *Plessy* v. *Ferguson* (1896), in which separate accommodations on railway cars were held to be "equal."

Looking at the *Plessy* decision, which takes on particular, ironic interest in the light of Judge W. Arthur Garrity's ruling and the recent turmoil in Boston, Kluger focuses on the majority's reliance on the decision of the Massachusetts Supreme Judicial Court, then headed by Chief Justice Lemuel Shaw, in the 1849 case of *Roberts* v. *City of Boston*. Young Sarah Roberts would walk each day past five elementary schools for white children to the Smith Grammar School, badly run-down, which had been designated since 1820 as the school for Negroes. When her father was repeatedly rebuffed in his attempts to have

Maurice deG. Ford, a graduate of Harvard Law School, is the author of the forthcoming Southie Is My Home Town.

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Sarah enrolled at one of the nearby white schools, he engaged Charles Graham Sumner, one of the leading civil rights advocates of his day and later a distinguished U.S. Senator. For the Boston School Committee to segregate Negro children was not only, Charles Sumner argued, to "brand a whole race with the stigma of inferiority and degradation" but injured white children as well: "Their hearts, yet tender with childhood, are necessarily hardened by this conduct, and their subsequent lives, perhaps, bear enduring testimony to this legalized uncharitableness." But Chief Justice Shaw and the Massachusetts Supreme Judicial Court were not persuaded by this plea, and suggested instead that segregation could be not only equal but might be for the benefit of both races. The Boston School Committee, 125 years later, has a long way to go before it fully absorbs the lesson taught by Charles Sumner.

The legal struggle for black equality that culminated in the Supreme Court's 1954 *Brown* decision has long been identified with Thurgood Marshall, but Kluger makes us conscious of his antecedents: the fiery and militant, but often too remote and uncompromising. W.E.B. Du Bois, founder of the NAACP, and Booker T. Washington, who genuflected too easily before the white man and urged his race to work hard and be realistic, rather than push for too much equality too soon. We are also introduced to leading figures in the NAACP and its Legal Defense Fund, many of whom have heretofore not been sufficiently known to or acclaimed by the general public. Charles Houston, born in black Washington, D.C., a Phi Beta Kappa graduate of Amherst College, the first black ever elected to the *Harvard Law Review* and dean of Howard University Law School, emerges as a seminal influence on that younger group of lawyers who were to argue for the NAACP in *Brown*. He exacted the highest standards of legal work from all who had contact with him, and drove himself unremittingly. And what a group of young men they were, working out of sparsely furnished offices at the Legal Defense Fund in New York! Many of them are famous now—Thurgood Marshall, a Justice of the Supreme Court; William Hastie, retired chief judge of the U.S. Court of Appeals for the Third Circuit; Spottswood Robinson III, distinguished member of the U.S. Court of Appeals for the District of Columbia Circuit; James Nabrit, president of Howard University. Yet they emerge in this book as very distinct young men, often with quite different ideas about legal strategy and each with his special talent to contribute to the cause.

Thurgood Marshall, however, was the man who held them all together. His special talent was not only his academic brilliance (in fact, there were at NAACP headquarters men whose purely intellectual powers were greater than his) but also his savvy and shrewdness, his sense of realistic possibilities at a given place in a given time, and an earthy warmth that embraced all with whom he dealt. A glimpse of these qualities is still evident from the questions—and tone of those questions—which he now asks of counsel during oral argument before the Court. Marshall was the field general of the attack on school segregation because he could be as comfortable in the field as in the courtroom. He enjoyed talking the language of his people, on the chicken-and-greens circuit or at a Southern Baptist Church. He had a knack of "getting people to want to give of themselves," gifted young white lawyers out of Harvard, Yale and Columbia Law Schools, such as Charles Black and Louis Pollak, who would work alongside William Coleman, Jr. (now Secretary of Transportation in President Ford's Cabinet) and Robert L. Carter (long-time counsel to the Legal Defense Fund, now a federal judge, and an immense help to Kluger when he was writing this book).

It was black and white together in the offices of the Legal Defense Fund, as they prepared to argue before the Court against some very powerful adversaries, notably the elegant, patrician John W. Davis, a highly skilled advocate and head of one of Wall Street's most prestigious law firms. Yet, after reading this book, an emerging law school graduate may feel more tempted to cast his or her lot for scraps of bread in order to work for social justice rather than join the comfortable Establishment. Not that Kluger's portrayal of the other side lacks balance. Davis, a man born with his pants creased and who had been the 1924 Democratic nominee for President, believed that rapid social change in the South could not be brought about by a Court decree, and the technical resources his firm employed were of a scrupulously high order. But because he failed to feel the central moral injustice of the Negro's plight, he does not seem, for all his ability, to have made a *difference* with his life. One of the lasting achievements of *Simple Justice* will be to encourage those who read it to make a difference with theirs.

A great strength of *Simple Justice* is its honesty and thoroughness. It is as warm in its admiration for the courage of lower court federal judges like John J. Parker of the Fourth Circuit, whose nomination to the Supreme Court the NAACP helped defeat, as it is for Judge Waites Waring, who rebuked his Charleston, S.C. heritage (and was, in turn, made an outcast) in order to rule in favor of the black drive for desegregated, equal education. It examines in detail the role of social science evidence in the *Brown* decision and is not afraid, for all its admiration of the man, to point out the inconclusiveness of Dr. Kenneth Clark's "doll tests."

Simple Justice will be a sensation, because Kluger has been able to reconstruct the conferences of the Justices, and their probable votes, after each of the oral arguments in *Brown*. What goes on in the conference of the Justices is so secret that rarely has the seal been broken. No one but the Justices is ever admitted to the conference room, the junior Justice serving as doorkeeper and recipient of messages from the outside world. However, Kluger has managed to get hold of handwritten notes by Justices Robert Jackson and Harold Burton which summarize (though sometimes cryptically) the discussion that took place. With the help of the late Alexander Bickel and others, Kluger was also given access to the Frankfurter papers at the Harvard Law School library, and the book contains some highly significant, never before published memoranda of the Justice. He interviewed the late Chief Justice Earl Warren and Associate Justice Tom C. Clark, each of whom said what his own view had been. Finally, after he had meticulously pieced together what he had reason to believe was the story, he got in touch with many of the law clerks for the Court during the period, in order to verify and flesh out the story. Many were of very great assistance, especially (with his Justice's permission) John

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Fassett, law clerk to Justice Stanley Reed.

Although the story will create a sensation in legal circles, the result that Kluger has achieved by piecing together the conference discussions and internal maneuverings within the Court while the School Segregation Cases were before it is not sensationalism. His is not a book of tantalizing bits of gossip but a work of careful scholarship which illuminates how the judicial process deals with an explosive social issue. He combines incisive and candid judicial biography with description of each Justice's view of the role of the Court in approaching the problem of desegregation. Justices whose moral position the author admires come in for personal criticism. Justice Douglas, who was often insufficiently appreciative of the contributions, and indifferent to the well-being of his law clerks, is portrayed as a "cold, highly introverted, sometimes downright unfriendly man," one who, to paraphrase a law clerk, seemed "another of those liberals who loved humanity in the abstract, but couldn't stand people in particular." On the other hand, Stanley Reed, whose original stance was against reversing *Plessy* v. *Ferguson*, is more sympathetically portrayed as a man of conscience who wrestled hard with his Southern upbringing and the issues.

When *Brown* first came before the conference of the Justices on the morning of December 12, 1952, Chief Justice Fred Vinson was presiding over the Court. Although no vote was taken, the line-up appeared to look like this:

> Four of the Justices—Black, Douglas, Burton and Minton—had stated their willingness to vote in favor of ending [school segregation]. One, Reed, was ready to vote to affirm it. The others apparently did not say how they would vote, except for Frankfurter's indication that he was ready to overturn Jim Crow schools in the nation's capital. Vinson and Clark were troubled by the uproar the Court might stir in voting down segregation and feared protracted domestic strife; they plainly preferred a wait-and-see stance. Jackson, according to his clerk who later succeeded to the Supreme Court, thought *Plessy* had been rightly decided and was ready to take the "unhumanitarian" position that it should now stand; according to all other evidence, he did not admire *Plessy* and would not oppose a Court vote striking it down, unless a majority insisted on declaring that segregation had been wrongly held to be constitutional all along.

The clerk to Justice Robert Jackson, referred to above, was William Rehnquist. In testifying before the Senate in 1971 at his confirmation hearing, Justice Rehnquist swore that the contents of a memorandum, entitled "A Random Thought on the Segregation Cases," initialed "whr," and arguing against overturning school desegregation, reflected not his own views but Justice Jackson's. However Kluger, with evidence from Rehnquist's co-clerk for Jackson during the 1952 term, presents a compelling case that Justice Rehnquist may have been seriously mistaken in his representations to the Senate on this matter.

With the Justices initially divided, Felix Frankfurter stepped into the breach. Despite his long personal fight on behalf of minorities and equal justice, the School Segregation Cases were not easy for Frankfurter to decide, as his biting (and often poorly answered) questions to counsel for the NAACP on oral argument indicate. Frankfurter was, in general, an apostle of judicial restraint, unwilling to overturn settled practices and the judgments of state legislatures. He put his diligent law clerk, Alex Bickel, to work delving into the legislative debates prior to the passage of the Fourteenth Amendment to make certain that history posed no bar to reversing school desegregation. When he was satisfied that what was morally right could be fully squared with the responsibilities of a Court engaged in judicial review—a very different function from that of legislating—Frankfurter devoted all his energies to delaying action by the Court until unanimity could be reached. Bickel recalls him as rushing back from one of the conferences of the Justices "in a state bordering upon exultation. 'He said it looked as if we can hold off a decision this term, that no one on the Court was pushing it, that no vote had actually been taken . . . and that if we could get together some questions for discussion at a reargument, the case could be held over until the new term.' "

Questions, of course, were not difficult to find. And when the new term of the Court began, Earl Warren was Chief Justice. The new "Chief" was a chief indeed. After reargument, the feeling, in late March 1954, remained 8 to 1 (Reed still the lone dissenter) to strike down segregation. But it was as yet unclear whether Justice Jackson or Justice Frankfurter or both would file separate, concurring opinions. Earl Warren appreciated the need for a unanimous opinion on an issue that might badly split the nation. The author demonstrates how he used his moral force and administrative and diplomatic skills to achieve it, finally winning over even Stanley Reed, "for the good of the country."

The opinion handed down by the Warren Court on May 17, 1954 was simple and modulated. It did not go as far as many individuals would have liked. In showing us how that opinion came into being, and the compromises its wording represented, Richard Kluger gives us all a valuable lesson in judicial statesmanship—one which should be of use to beleaguered judges of the 1970s. Even more disappointing to liberals was the Court's implementation decision, *Brown* II, delivered in the spring of 1955 and containing the much debated phrase "with all deliberate speed." At that time, the dominant voice in conference seems to have been that of Mr. Justice Black. No man was more forthright than he in insisting, from the very beginning, that school segregation must end. But his fellow Justices, respecting his knowledge of the South, heeded his warnings that "the less we say, the better off we are," that nothing was "more important than that this Court not issue what it cannot enforce."

It is sad that almost all the problems confronted by the Justices of the Warren Court are still with us today. They are particularly exacerbated, as the headlines remind us daily, in the context of Northern, large-city school desegregation. In the South, particularly at the time of *Brown*, whites and blacks tended to live in reasonable proximity to each other, although their separate schools and drinking fountains were clearly labeled. Thus desegregation could often be achieved by simply altering school attendance lines. In large Northern cities, whites and blacks often live in compact, widely geographically separate neighborhoods (such as Boston's Charlestown and Roxbury sections). Large-scale bussing is the only practicable way to desegregate. That fact, based on

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demography and causing upheavals in settled, neighborhood ways of living, has led to the current political storms.

There have been assaults on all fronts. Last fall, when a number of tense school systems were opening under desegregation orders, Gerald Ford repeatedly deplored the use of forced bussing as a means to bring about equal educational opportunity. He did so, despite a stern admonition from the U.S. Commission on Civil Rights that, by such conduct, the executive branch was severely undermining the authority of the federal courts. In an election year, it seems likely that very few candidates for the Presidency will display the courage shown recently by George McGovern in Louisville, when he insisted that the Democratic Party must adopt a firm stand in support of court-ordered desegregation.

For the past several years, Congress has conducted a curious annual ritual. The House, whose members represent comparatively parochial community interests, has voted to amend the Civil Rights Act of 1964 to deprive the Department of Health, Education and Welfare of the power to cut off federal funds to school districts which refuse to desegregate promptly. But each year the Senate, albeit by increasingly narrow margins, has refused to go along with such legislation, realizing that to do so would eliminate the perhaps most effective way to persuade cities (especially in the North) that they must desegregate. Last fall, however, a majority of the Senate sided with the House to cut down HEW's enforcement capability—a move whose practical and symbolic implications are not lost on black people.

While 56 per cent of Americans say that they approve of desegregation, 75 per cent (according to the latest Harris poll) disapprove of bussing as a way to accomplish it. But something other than bussing is clearly at work here, for no one seriously objects to the fact that vast numbers of American children are daily bussed to school throughout the country for nonracial purposes. Michael Novak, a liberal-turned-conservative Catholic philosopher, whose latest work (in the Moynihan-Glazer tradition) is *The Rise of the Unmeltable Ethnics*, has tried to explain the urban white fear of what is at the end of the bus line:

> Kenneth Clark and others have described the "tangle of pathologies" in the black ghettos. The story is visible to anyone who has shared the heart-rending experience of working with the one-third of all blacks who are part of the black underclass.
>
> Working-class whites, whose own children are on the brink of the same dropout rates, low achievement rates, high rates of drug-use, and climbing rates of early pregnancy and illegitimacy, are afraid of the black underclass precisely because they understand the pull of downward mobility. They see downward mobility all around them. They feel it in their families.

Blacks in Boston, having experienced the mood of white crowds "protecting" South Boston's Carson Beach; having watched mothers on the march, waving tiny American flags and chanting Hail Marys against bussing in Charlestown and East Boston, and having followed the vivid television accounts of the turmoil in Louisville as it undergoes metropolitan desegregation, give a less sympathetic explanation. They call it "racism, pure and simple."

However, even substantial segments of the black community have abandoned the faith. In part, this is because

they have waited for more than twenty years to see the dream of *Brown* v. *Board of Education* realized. There has been infinitely more deliberation than speed. But in part, the failure to push hard for integration stems from a healthy appreciation of the strengths of the black community and from a realization that only when blacks have power and control over their destiny will they be able to realize their full human potential.

In a little noticed legal action of the early 1970s, CORE, under the leadership of Roy Innis, filed an *amicus curiae* brief before the U.S. Supreme Court, suggesting that, rather than integrate, blacks should be permitted to secede from school systems that practiced discrimination. In that way, they could prevent being further "whitewashed" and establish schools where black was, indeed, beautiful. The brief was filed in the Mobile, Ala. case, argued and decided at the same time as *Swann* v. *Charlotte-Mecklenburg Board of Education*, in which the Supreme Court legitimated large-scale forced bussing as a means to bring about desegregation.

CORE's views did not prevail before the Supreme Court in 1971, largely, no doubt, because the Court knew that many whites would have rejoiced in its reasoning: "Them in their schools, and us in our schools. That's fine with us." But the Atlanta chapter of the NAACP, against the strongly expressed views of many lawyers for the national organization, successfully opposed active support of a metropolitan desegregation suit that would have dispersed the black community. It settled instead for the promise of

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many more positions of power within the largely black Atlanta school system. Upholding the Atlanta plan, the Fifth Circuit Court of Appeals, a bastion of liberalism during both the Warren and Burger Court eras, has recently sounded an ominous note. It found itself forced to admit that "every judicial design for achieving racial integration in this system has failed" because of "white flight" and proclaimed that:

> The aim of the Fourteenth Amendment guarantee of equal protection . . . is to assure that state-supported educational opportunity is afforded without regard to race. It is not to achieve racial integration in the public schools.

Commenting on the Fifth Circuit's decision, Warren Fortson, a lawyer for the Atlanta school board, said that the court was "kind of picking up on the mood of the country." And in a survey published by the *Boston Herald American* just before the opening of the Boston public schools last fall, four out of ten blacks opposed bussing.

The social science evidence of whether bussing produces either educational gains or improved racial attitudes for blacks or whites is indeed very mixed. The principal author of the Coleman Report seems to be reversing himself of late, much to the delight of Boston's Louise Day Hicks, who could not resist repeatedly calling his reappraisal to the attention of the U.S. Commission on Civil Rights during its hearings on the Boston case last summer. The Thomas Pettigrews engage in endless acrimonious debate with the David Armors of the academic world about the benefits of desegregation, challenging each other's techniques of statistical analysis, while the Jensens and Shockleys look on from the sidelines. Each lawyer in the debate seems to have found some social science "scripture" to cite as an appendix to his brief.

Caught in all this pother are the federal district judges—lonely men like Judge Garrity of Boston, James McMillan of Charlotte and the late Stephen Roth of Detroit, who are often looked to by civil libertarians as the last hope of mankind or, at least, of black mankind. These judges seem to have the President, the Congress, the white public opinion polls, many blacks and some social scientists arrayed against them. Apart from the contempt power, the judiciary has few tools to enforce desegregation orders. And the contempt power must be sparingly exercised, lest it make martyrs of those, like the majority of the Boston School Committee, who ride the crest of popular resistance. In addition, the judges' law school educations, focusing on the analysis of appellate decisions, have seldom given them the breadth of knowledge or the training in statistics that would enable them to understand such complex issues as school desegregation and its implementation. And a number of traditionally "liberal" constitutional experts have questioned whether in a democracy judges should be asked to assume so much of the burden of desegregation.

Alexander Bickel, whose untimely death occurred almost a year ago, was chief exponent of this last viewpoint. In his recently published final book, *The Morality of Constraint*, he wonders whether the idealists (or were they idealogues?) who made up the majority of the Warren Court were sufficiently sensitive to the "[l]imits . . . set by culture, by time- and place-bound conditions" in an ethnically pluralistic society. Judges, not being popularly elected and hence not politically responsible, act at their peril, thought Bickel, when they decide such complex matters as the Reapportionment Cases with the simple slogan—one man, one vote—or shuffle blacks and whites around a large-city school system in checkerboard fashion. Such remedial decrees, he believed, do not recognize the importance of diversity or of keeping communities intact—considerations which many mental health professionals deem vital.

Liberals today are in doubt as to which course is more truly "liberal"—to let a nonelected federal judge become involved in running almost every aspect of a school system (a position into which Judge Garrity has nearly been forced in Boston) or to give a more popularly representative school committee the freedom to try to accommodate the command of the Constitution to "local conditions." Very thoughtful people express alarm at too much reliance upon the judiciary to solve major social problems, as Nathan Glazer has in the current issue of *The Public Interest*. In this confusion of mind at almost every level of society, we grope for sources which might provide some guidelines toward an "answer" to this dilemma.

Simple Justice, I would suggest, is exactly such a source. Richard Kluger, to be sure, only touches, in a brief final chapter, on the problems that have arisen during the twenty years since the *Brown* decision. Yet, by setting the questions raised today in the context of history, he shows that they are not really new questions. Dwight Eisenhower, like Gerald Ford today, supported the decision in *Brown* only when absolutely necessary, as in sending federal troops into Little Rock in 1957. He later said that appointing Earl Warren as Chief Justice was one of the greatest mistakes of his Presidency. The social science dispute in *Brown* was as heated, and the evidence as conflicting, as the dispute over bussing is today. Yet the Supreme Court acted unanimously.

For the decision in *Brown* v. *Board of Education* was a moral imperative, as Judge Garrity's decision to bus in Boston is in the present era. To borrow, again, the words of Alexander Bickel:

> Like poetry, then, as a verse by Auden tells us, the great *School Segregation* decision of May 17, 1954 made nothing happen. But only like poetry. Only as it may sometimes seem that nothing but power, purposefully applied, can affect reality, only thus could it be said that this first decision had no consequences. . . . In fact, announcement of the principle was in itself an action of great moment, considering the source from which it came. Immediately, in the phrase Lincoln used about slavery, segregation was placed "where the public mind shall rest in the belief that is in course of ultimate extinction". . . .

Simple Justice, like *Brown*, brings us back to first principles, at a time when many are tempted to forget them. Its writing was for its author, like poetry for Keats, "a vale of soul-making." At one point during the fall of 1953, as the final NAACP brief in *Brown* was being written, Thurgood Marshall turned to the white, Yale-educated Charles Black, who was working with him, and gave him the ultimate accolade: "You are a Negro." The same can now be said of Richard Kluger. If a man should achieve nothing more with his life than to write a book like *Simple Justice*, his life will still have been grandly lived. This is a monumental accomplishment. □

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BOOKS & THE ARTS

Honoring Rank, Class and Estate

TWILIGHT OF AUTHORITY. *By Robert Nisbet. Oxford University Press. 287 pp. $10.95.*

VICTOR LEBOW

In his play, *The Barber of Seville*, Beaumarchais has Figaro ask, with sly impertinence, "if any sort of rabble are allowed to be in the right, what is to become of order and discipline?"

Questions with this import, but wholly devoid of revolutionary innuendo, are being asked again today. In fact, Oswald Spengler summed up the underlying current of thought exemplified by the book under review when he declared, "Aristocracy in the completed culture, and Democracy in the incipient cosmopolitan Civilization, stand opposed till both are submerged in Caesarism." Although he never joined or accepted them, Spengler was, in a sense, a prophet of the Nazis.

Professor Nisbet, too, is writing about the decline of the West, more particularly of the corruption and decay in the United States. The author is a highly regarded sociologist who occupies the prestigious Albert Schweitzer Chair in the Humanities at Columbia University. His book displays his learning, and it is laden with facts, ideas, interpretations and analogies which, by themselves, delight the eager mind. But the work is actually devoted to arguing a thesis, one already anticipated in part by Spengler and others, but elaborated and extended here to embrace our entire society—with a single significant exception.

To a most distinguished pack of *bêtes noires*, including Plato, Rousseau, Hobbes, Bentham, Marx and a long list of lesser malefactors, he counterposes the authorities for his own stand. They include Aristotle, for his critique of Plato's views in the *Republic* and *Timaeus*, Edmund Burke, for his *Reflections on the Revolution in France*, Alexis de Tocqueville, for his classic *Democracy in America* and assorted other thinkers, including the founders of this Republic.

In essence, this is an attack on the American concept of equality, and an assault on the ideal of egalitarianism. Equality before the law and equality of opportunity Nisbet grants without question as rights bestowed by the Constitution and the courts. But equality of "result and condition" he condemns as corrosive of the values of Western civilization. By this phrase he means—to put it bluntly—the assumption of equality in areas where the presumptuous don't belong. Blacks in the South used to know it under that threatening appellation, "uppity."

Nisbet quotes Burke extensively. "Believe me, Sir, those who attempt to level never equalize." Then Burke's warning that nationalism or patriotism that sought a foundation in the ruins of what Burke called "smaller patriotisms" —that is, family, neighborhood, locality and region—was destined to fail. Again from Burke, "Woe to that country . . . that considers a low education, a mean contracted view of things, a sordid mercenary occupation, as a preferable title to command. *Everything ought to be open but not indifferently to every man.*" (Burke's italics.)

To make the point quite clear, Nisbet adds, "Hierarchy in some degree is, as I say, an ineradicable element of the social bond, and, with all respect for equality before the law—which is, of course, utterly vital to free society—it is important that rank, class, and estate in all spheres become once again honored rather than, as is now the case, despised or feared by intellectuals. Certainly no philosophy of pluralism is conceivable without hierarchy—as open as is humanly possible for it to be but not, in Burke's word, indifferently open."

To an extent, one can agree with this position. For example, when Senator Hruska, of Nebraska, arguing for the confirmation of one of Nixon's nominees for the Supreme Court, was confronted with the widely held opinion that the man was a mediocre judge and lawyer, he retorted that mediocrities should also have the right to representation on the Court. For, that matter, Gerald Ford is an example of a man incompetent in terms of the demands of "rank, class, and estate," if "class" be taken in its colloquial sense. But what Nisbet means goes deeper and involves concepts and attitudes which question much that is basic not only to American ideals but to those of the whole Western world. His disapproval of Rousseau is based on the latter's doctrine of the General Will, directed toward achieving equality in the social order. To Rousseau, inequality was the chief cause of the corruption, duplicity and tyranny which suffused the *ancien régime*. "To this moment," Nisbet affirms, "Rousseau remains the greatest single theorist of equalitarianism the West has seen."

Nisbet insists again and again that in our time there is a pressing need for the rebirth of pluralism. He enumerates its values. He calls for functional autonomy in the school, the economy, religion and especially the family. He practically equates Rousseau with totalitarianism because in his *Discourse on Political Economy* that philosopher recommended virtually abolishing the family, chiefly as a means of separating children from the "prejudices" of their fathers. Nisbet argues for decentralization, the return of local identities, of voluntary associations, with government turned over to as many hands as possible: workers, enterprisers, professionals, families, neighborhoods. He quotes Lamennais, the French Catholic opponent of the royalist clergy: "Centralization breeds apoplexy at the center and anemia at the extreme." To strengthen his stand for decentralization, he marshals Aristotle, Aquinas, Althusius, Jean Bodin, Burke, Tocqueville, Durkheim, Max Weber. As he understands it, the adoption of Roman law by the West produced a system utterly repugnant to pluralism, to localism, indeed to the idea of a secular sovereignty. Since militarism played the leading role in shaping the society of the Roman Empire, its laws put the individual above the family; it was the law of a military state. Before its adoption in the Middle Ages, medieval relationships had been founded on status, age, sex, ethnicity. It was under Roman law that the guilds and other groups and communities were dismembered.

To hierarchy Nisbet adds, among the values of pluralism, the role of tradition, the ability to lean on use and wont, on an established and accepted social order, on custom and on folkways. As he puts it, governments cannot even comprehend the part these factors play

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in the life of humanity—or rather, the role they *have* played and which have allowed men to be masters of their own destinies. To Nisbet, the actions of our courts toward a "New Equality" have produced a "New Despotism." The evil of equality is that it becomes insatiable in its demands and is transformed into a revolutionary force. To rescue our lives from the overwhelming, total power of the state, from our cultural decadence, from a boredom relieved only by war, spectacle, crusade or riot, Nisbet calls for the restoration of authority and social initiative to groups, neighborhoods, localities, the family and such voluntary associations as people choose if permitted a choice. He sees our lives as full of frustration and our milieu as destructive of the Protestant ethic.

Beyond these specifics is his theory of history as a succession of civilizations whose decline has been marked by what Nisbet terms their "twilight age." For an explication of his view of our present condition, he develops the chronicle of the rise and imminent decline of the nation state. The twilight ages have been marked by cultural and social decay, the "celebration of war and power," and intense subjectivism. In Western history, he traces those twilight ages beginning with that of Athens in the period following the Peloponnesian Wars, then, still in the Greek world, the era which preceded the rise of Christianity. Rome during the first century B.C. was in that condition, as was Europe during the Renaissance. He rejects the term "Dark Ages" for the era after the fall of the Roman Empire; feudalism has many attractions for him. Now we of the Western world are in a twilight age.

Nisbet puts his aim clearly in the preface to this book:

> My objective is that of seeking to light up the present, chiefly the American present, in the historical perspective of twilight. It is hard to think of any other useful perspective in which to set the combined phenomena of sense of cultural decay, erosion of institutions, progressive inflation of values in all spheres, economic included, and constantly increasing centralization—and militarization—of power. If there were no other indicator, the impact of war and of the military on the West, especially since about 1940, would be sufficient—that and the cognate spread of the kind of social equalitarianism which is bred less by the moral value of equality than by centralized power's leveling effects upon the natural hierarchies of all social institutions.

He sees culture itself as "inherently feudal," by which he means that it derives from and is inspired by tradition and the groping of the artist, scientist or philosopher to reach out—but within the bounds of that tradition—until new discoveries, new experiments, new times force change upon them. "In no respect is escape from culture at the present time more manifest than in the general loss of confidence in *knowledge*: the knowledge that is associated with scientist as well as scholar, humanist, and imaginative artist." His onslaught on the deterioration of language is particularly noteworthy. The historical roots of culture and personality, Nisbet insists, lie deep in neighborhood, family and religion, but the modern industrial and political society have profoundly changed the position and influence of these types of community.

This review of *Twilight of Authority* has reversed the customary order in considering a work. It has started with some of Nisbet's conclusions rather than his reasons for them. It is a fact that the greater part of this book is brilliant both in its marshaling of information and its felicity of expression. Saddled as we are with Henry Kissinger, it is appropriate to quote Nisbet, "It is difficult to distinguish at times between the political and the military intellectual." He can turn a phrase worthy of preservation in Bartlett's: "Nostalgia is the rust of memory." To which he adds, "Having, as it were, lost the past from our present, we look back at it fondly, and so often vapidly. It is a poor substitute for the sacred."

What its author has done in this book is to begin with a catalogue of all the weaknesses, shortcomings, corruption and disruption of our civilization, and draw from them his critique of the equalitarian doctrines and the mindless radicalism which, in his view, all stem from Rousseau with his worship of equality. Most thinking people will not only recognize but also agree with much of what he finds wrong and even evil in our society, our ways and our political and governmental institutions. It is too long a list to recount more than partially here: The dominance of bureaucracy which overpowers the individual and the natural group, whether it be family, neighborhood or association; the loss of credibility in the political process and its leaders; the prevalence of mediocrity in social, economic, political and cultural fields; the role of government as deceiver of the people; the weakening and loss of the ideological foundations of our political parties; the rise of a "democratic royalism" with the White House as its palace and its occupant the object of special pomp, and possessed of enormous power, especially since the "reign" of FDR; the many evidences of corruption in both our social and political life. However, Nisbet omits the pervasive and omnipresent corruption of capitalist enterprise in both its domestic and international roles.

His treatment of "the lure of military society" is most interesting for what it reveals about his insights and his blind spots. To him, the rise of militarism in a society means the twilight of authority in the civil sphere. Moreover, he believes that intellectuals are fascinated by the use of power in times of crisis, and so are attracted to the military and to war itself. Even the social welfare budget expands as the military grow in power—as did the "corn dole" in ancient Rome. He cites Condorcet's suggestion that the rise of the infantry led to the creation of democracy, and for that reason democracy itself is closely related to war. In contrast with these speculations, there is a stark fact: Nisbet appears to see no connection between capitalist enterprise and war. And yet a certain career officer, later president of Columbia University and President of the United States, saw it plainly enough to give it a lasting label. He called it the "military-industrial complex" and his name was Eisenhower.

One must agree with Nisbet's estimate of the erosion of patriotism and the defection of the young—but he sees some hope in their communes. He uses Hobbes's famous words on the state of nature to describe how the American people now live "in continual fear and danger of violent death." No longer is patriotism the force it once was, although it made possible our acceptance of the dominant role which the political state has assumed in both social and economic affairs. He appears to prefer the role of the Church in feudal times, when all were under its sway, to that of the nation states of the past several centuries.

Nisbet considers the women's liberation and the black civil rights movements to be genuinely revolutionary, although it is too soon to tell how far they will go and how great will be their consequences. Then he adds, "I am saying only that . . . [these movements] like all others known to us in history, have to be seen against a background of prior destruction or erosion of key values." How this makes special sense in relation to the demands of both women and blacks escapes this reviewer. Particularly disturbing is his treatment of what he calls "The Pains of Affluence." Agreed, that the middle class is aware of its riches in the face of poverty, and that it wants to keep its hands clean while the bureaucracy handles the dole. However, he insists that the fading of the Protestant ethic and the political

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commitment to universal welfare are bound to reduce the actual amount of work done by individuals and erode the age-old compulsion to work. In this day of some 10 million or so unemployed—and probably more on the way to join them—Nisbet writes that the ethic of work "cannot for long have the compulsion it has immemorially had in a society now politically committed to unemployment compensation, food stamps, Social Security and Medicare." (He does agree that some degree of security may be a minimum essential for the human community.)

Nowhere in this work with its astounding fund of references and quotations is there a single mention of the corrosive effects upon our political and social life of that most dominant of all institutions, the system of private enterprise, business, capitalism. In fact, Nisbet berates the intellectuals for their dislike of the businessman and his regard for profits, and finds them grievously at fault in denigrating the feudal society of the Dark and early Middle Ages. For him, apparently, those were the halcyon days. (On Nisbet the "rust of nostalgia" must be very deep indeed; scraped away, it appears to have been encrusted on a coat of mail—or perhaps to be mold on a scholastic's gown.)

Let me not deny the brilliance of his attack. But that attack is no lonely sortie. Fortuitously or not, Nisbet is one of a group of academicians who are using all the tools of their scholarship to assault the basic ideal of equality. While Gunnar Myrdal, in his *Asian Drama* and in *The Challenge of World Poverty*, makes the point that dominant among the demands of the peoples of the underdeveloped countries is equality, after all the generations of their oppression and exploitation by Western imperialism and their own elites (and Myrdal makes the same point in regard to the American blacks in *An American Dilemma*), Prof. Robert W. Tucker, of Johns Hopkins University, in his essay "Egalitarianism and International Politics," in a recent issue of *Commentary*, opens with a "rebuttal" of Myrdal's statements of *fact*. And the Fall issue of *The Public Interest* is replete with articles in this vein.

It is an ironic commentary on Nisbet's careful neglect of the role of capitalism in the deterioration of our society and the corruption of our political system that the magazine *Business Week*, by far the most influential of all business publications after *The Wall Street Journal*, should present in its issue of December 1, 1975, the first of three articles entitled "Egalitarianism: Threat to a Free Market." To this reviewer, who is old and inured to threatening clouds, this still looks like something that might be called the Falange of the Academicians. Yes, Nisbet has a chapter of "positive" suggestions. To my mind, they are unreal and without worth. □

The Word Becomes a Voice

JUDAH STAMPFER

Jewish creative writing in this country has developed a sour taste. That does not necessarily diminish its quality. From Jacobean satires to Céline's novels of diatribe, and indeed from ancient times, sour writing has had its own kind of usefulness. But the Jewish voice has grown pathetic as it has turned sour in recent times—full of howls, complaints, self-mockery, black humor, involved in a burlesque of older works and public events, with a haze of bathos hanging over it all. Elizabethan satire burlesqued a savage society; modern Jewish writers burlesque their own experience as observers of a corrupt society.

The literary instrument that has gone sour is the Jewish voice of sanity. A powerful tool in the yet recent past, that voice has broken up into berserk associations, has been possessed by demonic impulses, and has cut loose from vital contact with the workings of American society. The process may be sobering to contemplate, but it should come as no shock. The Jewish voice became autonomous fairly recently in history and is necessarily vulnerable to every kind of mannerism.

Jewish consciousness was once the instrument not of the voice but of the Word. The obsession with the Word is a curious aberration in Jewish cultural history. In the Bible, personal integrity is achieved through the voice-to-ear channel. Plato's vision of a supreme arrival at selfhood is one of climbing out of the cave to gaze on the sun. Isaiah arrived at comparable authenticity by a word: "Also I heard the voice of the Lord, saying, Whom shall I send, and who will go for us? Then said I, Here am I; send me."

The obsession with the Word accounts for certain eccentricities in the composition of the Bible. The text concentrates so narrowly on rendering the Word undefiled, slighting the roundedness or structure of a book, that one is never quite sure where a given book ends and the next begins. The First Isaiah was separated from the Second only in the 18th century; the original texts flowed one into the other without clarification. It seems likely that Genesis consists of three clusters of material: origins, the patriarchs and the Joseph story, with vast differences in style and source; yet they are blended together to form one book, Genesis. The various voices in the Song of Songs are so run together that one can only with difficulty establish if the poem is a play or a medley of fragmentary love lyrics.

The experience of exile confirmed the cultural bent expressed in these structural oddities in the Bible. It is significant for the tenor of traditional Jewish thought that God extended a scroll of parchment to Ezekiel, the first prophet of exile, which Ezekiel literally ate and digested. The prophet of exile took the Word inside his body to be to him a mysterious new homeland. The episode is full of paradox: a prophetic scroll is announced, and then eaten up with its contents never revealed; laden with calamity, it feels sweet in Ezekiel's stomach. The suggestion is that the digested parchment sank into Ezekiel's consciousness. The Word, deep inside him, became its own excuse for being, a seeding of the life of spirit before the coming life of exile.

There is a pervasive sense in Jewish cultural history of an autonomous spirit in double focus—the mysterious Word, forever approximated and never made final by the voice of the believer. In the Gospel of John, the Word is reified and made a transcendental entity: "In the beginning was the Word, and the Word was with God, and the Word was God." In the Old Testament, its nature is more elusive, the timbre of a voice of truth making authentic communication, truth as inspired utterance, prophecy as illumination.

The ambiguity in the Word lies behind the loose term Torah, which also has a double focus, representing both the core books of the Bible and anything uttered by a man of dedicated spirit. Folk wisdom grasped the double focus instinctively, calling the voice box Adam's apple. Good and evil lie not in the act of sex but in the knowledge thereof—in the act of giving it a name.

At the close of the 19th century Sig-

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Is Europe only 7 hours ahead of us?

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In Denmark, the ballet is so well subsidized that it is said the "artists and staff positively bask in tax money."

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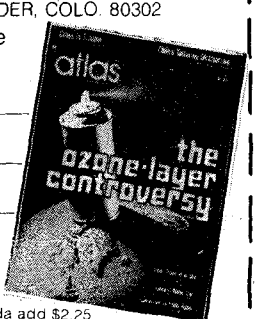

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mund Freud broke the voice free of the Word, and made it its own master. The peculiar therapeutic instrument that Freud hit upon, the analytic session between analyst and patient in the privacy of the analyst's office, is as pure a voice-to-ear experience as the communications of the prophets, and as painful. Freud labored to cleanse and refine this new-found tool. He quickly retreated from free association under the influence of drugs to ordinary communication, shifted his seat so that he was out of the patient's view and neutralized all distractions that might affect the voice-to-ear channel. Ferenczi and others experimented with body contact, holding the patient as if he were an insecure baby. Freud was severe in his rejection of the practice.

However carefully Freud preserved the pure voice-to-ear experience, he never fully articulated the meaning of his practice in that regard. The analogy he drew between the libido and electrical energy, however helpful in investigation, created a block here. The powers of the voice take effect by a kind of psychic contagion; but Freud's metaphor was electrical energy, which is not a contagion.

My feeling is that here Freud practiced better than he preached. From the standpoint of sense experience, the traditional analytic session is not one of touch or vision but of hearing. Now, Freud ends *Totem and Taboo* with the words, "In the beginning was the deed." His view is that history began as a psychic sickness, in the original crime of parricide and cannibalism. The reversal and healing of that sickness lie in the analytic session. There, too, the beginning is the Word, for the analyst shapes, aligns, forges, and makes effective the patient's communications. But that process is only a means to an end. Freud's career was a life-long exercise in lancing and draining the poison from the Word itself and making it the effective instrument of the voice. Healing comes as the patient's full personality is effectively opened to consciousness.

In a curious footnote to this shift, David Bakan, in *Sigmund Freud and the Jewish Mystical Tradition*, remarks that Freud called his first analytic patient Dorah in his writings, but would not explain that choice of a masking name. As Bakan points out, Dorah is close to Torah. Whether or not it is a pun, it expresses the release of the voice from the Word. When Freud analyzed his first patient, the Word, or Torah, was withdrawn from its sphere and reduced to Dorah, an anarchic presence rooted in human functions. The Word was thus humanized and secularized in the voice.

Modern Jewish writing, from Sholem Aleichem to Saul Bellow, takes this stance of a voice emancipated from the Word as being the touchstone of sanity. The emancipation is from the ghetto into the public square, from medieval piety to secular mistrust, from scripture to open speech. The literary voice is the skeptical, autonomous instrument that tastes, enjoys and records the judgments of its taste buds on human experience.

There is strength in this voice, the voice of secular consciousness—learned, humane, aware of every injustice and every outrage. The trouble with the instrument is that it is loose, half outside the body, prone to narcissism and self-mockery, having a most unstable relationship with unconscious process, having no instinct for force and no necessary relation to the forces that shape society. The voice belongs to secular consciousness, but consciousness itself is suspect in our culture.

Herein lies some of the strength and weakness of Saul Bellow, whose style is a continuous learned truculence. His extraordinary voice box, rooted in Yiddish, maintains an equilibrium of consciousness in a world in which the Word is no longer possible. His fiction is at its strongest in its somber, difficult, multifaceted heroes, all of whom have an absolutely believable consciousness whose speech cannot express any kind of resolution. Their unfolding meditations suggest a frightening power; they can confront anyone, send letters anywhere, make demands of the entire universe. Yet all these confrontations dissolve into ineffectuality as their sprightly meditations go on.

This central character in Bellow has, for all his power, a certain narcissistic pathos; the other characters stand flatly, two-dimensionally alongside him. Bellow's endings are tricky, inconclusive, enigmatic, the exhaustion of an emotion without an arrival anywhere; it is the unstilled voice, rendering the hero's mind, that gives a ghostly finality to his books. But that voice remains in suspense in *Dangling Man*; it expresses the pathetic awareness of an intellectual narcissist in *Herzog*; it becomes self-mockery in *Humboldt's Gift*.

The first step in secularization that made the Word a voice in writers like Saul Bellow, has already reached its second stage, where the voice of sanity has grown demonic. Neither the name nor the impact of Allen Ginsberg's *Howl* is a coincidence. Ginsberg has steadily changed his position. Society has long accepted him as a sort of Shakespearean clown, but his raw, disembodied voice of outrage has steadily evolved into that of the bearded Buddhist sage, who visits around the world with his eccentric family. The howl of outrage, mockery, fixated adolescence and flamboyant exhibitionism in which Ginsberg first expressed himself is the Jewish voice dis-

SONG AT THE ISTHMUS

'By a vein between
Body and brain
All your fortune flows
Micer Codro said,
'The sea you claim'—
Gray by then through the red,
On a pole in Darien
Balboa's head exposed—
Who found the Southern Sea,
Walking out in the waves
That rose in the great bay,
Where the men had cut green trees
Emblems of fresh victory
Palm fronds and laurel
Borne back over the hills;

But there came a second man
More skillful still,
And old, the age of snow,
Eighty even then,
Into the Golden Land—
Who stole what the first had

Even the envied Sea—
Watching behind a screen
A thin wall of reeds
To see his head fall,

And set Balboa's face,
Who came to their meeting
As to a feast of friends,
Over a dirt square
On the coast at Darien.

What does the Ocean say,
The great Sea? for one
Or the other of these?

I am No Man's

But if I must weigh,
Let it be the deceived
He who lost me

Vasco Nunez

Over the waves
Then rushing back,
The veins of dark sand.

Micer Codro, prophet,
Wanderer in the New World,
Himself murdered, left on the sho

William Burford

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embodied and gone demonic.

The nearest parallel to *Howl* is not another Beat work but Philip Roth's *Portnoy's Complaint*, again a disembodied voice of outraged mockery, of immaturity and of a demented demand for justice. Ginsberg was obsessed by Moloch, the Canaanite god of avaricious plunder. His poem is a work of demonic prophecy, with no Jehovah to fall back on. *Portnoy's Complaint* is the flailing of a voice narcissistic and possessed, a voice of adolescence with no adulthood to arrive at.

The evolving Jewish voice has a bracing power of movement. Its defect is that as the voice gets farther away from the Word, it becomes increasingly trivial, self-mocking, loose, fragmentary. It does on paper what a good borscht-circuit comedian does orally, offering a series of skits that make up in verbal excitement for their lack of believability—something they never aspired to in the first place. Roth's novels have come increasingly to resemble such a series of skits. Indeed, his successors are already emerging—cooler, thinner, even more fragmentary. A succession could be drawn from Bellow through Roth to Woody Allen's *Without Feathers*.

At the turn of the century, Pirandello wrote a play about six characters in search of an author. Modern Jewish writing has turned into six witty voices in search of something significant to say. □

What Sergeant Daly Saw

A HERO'S WELCOME: The Conscience of Sergeant James Daly vs. The United States Army. *By James Daly and Lee Bergman. The Bobbs-Merrill Co. 267 pp. $8.50.*

ROGER NEVILLE WILLIAMS

Possibly the only thing lonelier than being a POW in Vietnam for five years is to be the author of a book on life as a POW that contradicts nearly everything the American people were told about the prisoners by Nixon and his spokesmen, the Pentagon, and the television networks during the war.

Convinced by an Army recruiter that the only way he could qualify for a noncombatant position consistent with his beliefs as a Jehovah's Witness was to enlist for four years (his draft board had denied him C.O. status), Jim Daly joined the U.S. Army as a volunteer. After basic training, however, he was sent straight to the infantry. He protested and filed for discharge as a C.O., but he was shipped to Vietnam. There he was promoted to Specialist Fourth Class, given a gun which he refused to load, and sent out with the 196th Light Infantry Brigade. He continued to appeal for C.O. status while he learned the body-count system: "It was that simple. A three-day pass for every Vietnamese you kill. And it didn't seem to matter who—just as long as he was Vietnamese and he was dead." He recalls "Commander Gimlet's body-count pep talk," and says, "As unbelievable as it seemed to me, the Army's body-count system actually began to hook some of the guys, and they went all-out to kill Vietnamese whenever they could."

Roger Williams is the author of The New Exiles: American War Resisters in Canada (*Liveright*). *At present he is at work upon a book about the air war in Vietnam, focusing on American fliers and prisoners of war, to be issued by Penguin.*

In January 1968, in the Que Son Valley south of Danang, the National Liberation Front took its revenge on Alpha Company, which was then competing for the battalion's Vietnamese extermination record. In a blazing fire fight, Daly's entire company, except for six men, was wiped out. Afterward, laughing NLF soldiers sat around sharing C-ration fruit cocktail taken from the dead GIs.

Expecting to be killed shortly, Daly and the others were offered cigarettes, patted on the back by one NLF fighter who said, "No sweat, we no kill," and given a pamphlet in English entitled, "NLF's Lenient and Humanitarian Policy Toward American Prisoners of War." That will sound like propaganda to many Americans, but it was welcome news to Jim Daly who at that moment was thinking of killing himself, recalling "what they'd taught us in training—how if you're captured you're going to be tortured or killed, die a horrible death."

Ex-Sergeant Daly has told his story to Lee Bergman who, with Daly, skillfully edited the transcripts to avoid the appearance of an "as told to" book. Wryly titled, *A Hero's Welcome*, Daly's book is among the few that can help explain to those who weren't there what the war was all about. Daly was not only there but he lived with the other side, in both Vietnams, for five years, two months and eighteen days.

Several POW fighter pilots, all with college degrees, have also written books, and some of them are on the level of a Bible-Belt 8th grader. Daly, on the other hand, with no formal education beyond high school, who grew up a fatherless black in Bedford-Stuyvesant, Brooklyn, has told his story with humor and sensitivity, giving us a rare close-up of the national enemy we spent a decade hating and killing. He reveals a humanity oddly lacking in the many tales told by the airmen prisoners, and shows the "Vietcong" as people rather than as body count and "Communists Killed."

Daly was never tortured and never knew anyone who was—"It seemed to me they always treated us the best they could"—although for breaking camp rules he did suffer occasional punishments of some severity, like being tied to a tree for twenty-four hours. After an escape attempt in which one of his fellow prisoners was killed, he was "tried" and given thirty days "probation" and a stern warning. They told him he had a bad attitude—"You, Daly, are sometimes a hothead and must change"—and said that instead of being released as a "good will gesture" to the American peace movement, he would be the very last prisoner to go home. The NLF did release dozens of Americans in the South over the years, but Daly was sent to the North in 1971, thankful, he says, to have survived the blanket bombing of the free-fire-zone jungle in which he had lived with the "V.C." for three years. He had shared their struggle, "getting to know the guards as just people . . . as good friends," and seen the misery and the horror as he watched POWs die of disease in the NLF camps. In Hanoi he was surprised to find "clean rooms with electricity. We took baths regularly. We had beds and blankets." At

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Easter the prisoners in his camp received "a great goose dinner."

Daly's camp, "Plantation Gardens," was nearly hit in Nixon's B-52 blitz of Hanoi, and he could see the bombs exploding from his cell: "As the raid went on I was suddenly, for the first time in my life, filled with real hate. I hated every plane and every pilot who flew them. And I felt so sick at what was happening outside that window—sick and ashamed and sad at what my country was doing to these Vietnamese people—that I started to cry. A couple of others cried too."

Daly refused to sign any anti-war statements for four years. It was not until 1971 in Hanoi, after moving in with seven other like-minded POWs, all enlisted men captured in the South, that he signed a number of collective statements against the war, each more carefully worded than many a Senator's speech back home and each one angering the fanatically pro-Nixon pilots who dubbed his group "The Peace Committee."

When Daly returned home, he and the "Peace Committee" were subjected to the treason charges filed by Col. Theodore Guy, a pilot whom they had never met until the last week of their captivity. After one of their group killed himself, the charges were dropped. What Jim Daly has to say won't sit well with a lot of Americans. But after his years as a POW he has earned the right to say it, and after years of living with the Vietnamese he may know more about them than most of us. □

THEATRE

HAROLD CLURMAN

"I do not ask for your pity but just for your understanding—not even that—no. Just for your recognition of me in you." The young man who makes this request of us in Tennessee Williams's *Sweet Bird of Youth*, recently presented anew at the Brooklyn Academy of Music, has been a gigolo, has infected his sweetheart with a venereal disease and tries to blackmail an aging movie star in the hope that he may land a job for himself in Hollywood. He is hellbent for success and his only other characteristic is his scorn of the mean, little business employees—former schoolmates—of his native Southern town and for their vile boss. Then, too, his central conviction is that imparting and receiving pleasure in love-making is the supreme benefit of life. So, when he pleaded for my recognition of myself in him, I felt like shouting back, "I'll be damned if I do," and thought the audience might join me in unison. Our sins are less lurid than his, but far more meaningful.

I did not like the play when it was first produced in 1959 and I like it much less now. The best I can say for it at this point is that it has all the marks of a best-seller. It is colorfully and fluently written, with moments of pungent talk; it is anti-Establishment; it has suspense, violence, and implies larger issues. But it is mushy in thought, sensational in attitude and vibrantly banal in juvenile rebelliousness.

There would be little point in going into all this now if it were not to consider the acting in Edwin Sherin's well-directed production. Irene Worth, as the monstrously pitiful movie star, has rather less humor than Geraldine Page did in the original production, but—more strikingly than ever—she displays great power and command. I find her extremely effective performance . . . a *performance*. Its source is in will, intelligence and craft. Here her powers are at their height. Still, "She don't make me shiver none."

Christopher Walken plays the horrendous "hero" for all *he* is worth, matching savagery with savagery. There is in everything he does a cold, energetic resentment with a strong admixture of superciliousness that fits the part all too well. Only Matthew Cowles, who plays one of the "villains" of the piece, the hate-filled brother of the girl whom the protagonist defiled, stirred me. Cowles managed to convey the acute pain which may be mixed in the flesh of murderous vindictiveness. I pitied this killer more than his victim, not on any moral grounds but because Cowles infused his part with a hot, albeit morbid, humanity.

The temper of acting in a particular period reflects something of its cultural climate. Paul Newman, who played the "lead" in the earlier production of *Sweet Bird*, did not repel me (though the part did), not only because he is endowed with a particularly wholesome personality but because he seemed representative of a less hysterical time than ours. John Garfield, in his day, conveyed something of the crude but hearty optimism of the fervent 1930s. Earlier still, Fredric March was typical of the quiet, sturdy dignity of the decent citizen in the days of greater security. For the most part, our moment produces bitter herbs in acting as in other fields. I have mentioned Christopher Walken's wrathful disdain, but I think also of George Scott's sovereign contempt, Rip Torn's venom, the sometimes sad Al Pacino who is frequently frightening, and Dustin Hoffman who suggests a despair that has moved on to a semblance of oddball indifference or tired mockery.

In the March 8th issue here, I wrote from London a review of *The Norman Conquests*, a play voted the best of the season by the critics there and still running with its second or perhaps third cast.

It is the work of Alan Ayckbourn, a master hand at turning the bitter apathy, the stale absurdity which most English playwrights now find characteristic of Britain's lower-middle-class existence into hilarious comedy. He does this so well and so often (*Absurd Person Singular* is also his) that perhaps only the English, in tune with the material, can sense the sorry state of moral flatulence that underlies the play's laughter. In London I found it line by line very funny—"endearing entertainment" I called it—and still think it most comic, though less so now at the Morosco Theatre. But that may be due to my seeing it twice and to certain special traits of the American cast.

Ayckbourn's technical brilliance consists in making one play into three (given on three different evenings), which may be seen in any order, though I suggest you see the one called *Table Manners* first. Each of the plays—the other two are called *Living Together*, and *Round and Round the Garden*—is a panel of the whole. The plays' basic joke, while marvelously varied, never really changes, any more than do the characters and the action.

What interested me most on the present occasion was the difference between the English and the American acting of the play. For sheer provocation of laughter, both casts are equal. Two of the London performances—that of the bachelor girl who never finds her man, though ostensibly wooed by two; and that of a numskull veterinarian—were beyond compare. But the chief difference is that the English actors "push" less than ours do: they use much less energy or thrust to make their points. The result strikes one as more "normal." What saves the situation here, besides the writing and the merit of individual actors, is Eric Thompson's direction. It is so clever that one feels sure that the play will work anywhere; it seems to act for the actors.

All the players have their virtues and their moments. The most consistently apt is Carole Shelley—English by birth but since *The Odd Couple* resident here. Her sensible, somewhat acerbic and stabbingly precise attitude and delivery are unfailingly on target. Estelle Parsons is truly excellent when the tight prissiness of the woman she plays melts at Norman's amatory advances. (Norman is the plays' awkward but persistent romancer and feeble conqueror.) In general, Miss Parsons does a remarkable job, in view of the fact that she is cast entirely against type. Barry Nelson is expertly engaging as the average nice British bloke. There is a certain appeal in Paula Prentiss's bewildered sweetness, a womanliness half-smothered under the wet blanket of male obtuseness and family duty. Ken Howard can't fail in the part of the doltish animal doctor because it is a part in which no one can fail, and while I

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could not quite believe in Richard Benjamin's daftness—an ineffectual burble of romantic protest in a sea of social mediocrity—his performance still serves.

At the Manhattan Theatre Club (321 East 73rd Street) where interesting things are often to be seen, two plays—Sam Shepard's *Geography of a Horse Dreamer* and in another part of the club, David Storey's *Life Class*—have (at this writing) just opened. Both merit the attention I plan to give them in my next piece. □

FILMS

ROBERT HATCH

Costa-Gavras, whose abiding theme is political iniquity (*The Confession, State of Siege, Z*), turns now to the Vichy French with another fictional documentary, *Special Section* (screenplay by Jorge Semprun). It is less melodramatic than its predecessors; it contains no intricacy of espionage, no torture. Its purpose is to demonstrate how easily men of only adequate decency can turn vile when goaded to do the will of ruthless superiors.

In Paris, a small group of leftist students, deciding that a gesture must be made to protest the intolerable Nazi occupation, assassinate a German naval officer as he is boarding a Metro train and make good their escape. (They had previously aborted two attempts because of the fraternity they felt toward the intended targets; their eventual victim might also have escaped if he had not been wearing a dress sword, symbol of military arrogance.)

In Vichy, Pétain's high bureaucrats, ministers of the puppet regime, understand that the occupying authorities will take reprisals against this insult to their dominance, and decide to forestall the vengeance of the Germans by themselves sending an appropriate number of scapegoats to the guillotine. Arranging this act of appeasement is not entirely easy, for French law, under which Vichy ostensibly operates, does not tolerate the notion of punishing a person for a crime committed by someone else. However, the Minister of the Interior (Michel Lonsdale) is a resourceful—and forceful—man. He assembles his fellow ministers and tells them that a law must be passed immediately, setting up within the judiciary a special section empowered to try crimes against the state and to move *retroactively* against prisoners who have already been tried and sentenced. This also flouts French law (as it does all civilized law) and is regrettable, but the excuse given is that the Germans, if it is left to them, will demand much fiercer vengeance. It is never said, but a good many of the elegant French functionaries hope that their zeal will not go unnoticed by the new masters of Europe.

The men of Vichy are not particularly interesting. Except for the Minister of Justice (Louis Seigner), who is deeply outraged but befuddled by age, they are mere opportunistic tools of the oppressors—their willingness to serve as the odious mock government defines them.

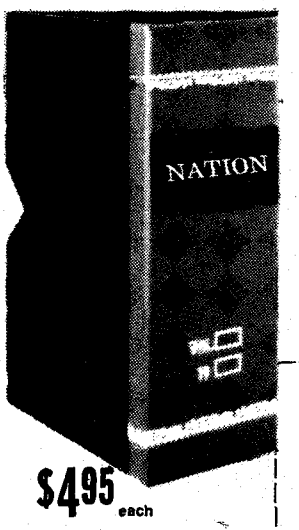
The main and awful subject of the film is the readiness with which members of the French judiciary could be persuaded to sit on the court and order the executions. They were all eminently respectable men, and uninvolved with the Nazis. But they had in common a sense of inferiority which they hid behind the dignity of their offices; for the most part, they had served in World War I, when they learned to obey. Drafted for their new duty, they first protested, then temporized; they rationalized, allowed themselves to be flattered, saw the chance for advancement at a stage of their lives when they had become resigned to modest attainments. They reopened the cases of men already sentenced to short terms for trivial offenses (Jews and Communists preferred) and they had three of them beheaded. True, they refused to produce the six that were wanted, but murder is a moral absolute. And with the precedent established, special sections, we are told, were set up all over France. We are further told that, when France was at last freed, no judge who participated at these trials was in any way officially punished.

I don't know that punishment would have served much purpose. Any nation at any time contains the germ of this sort of jackal spirit—you can scarcely call it wickedness. In any case, it all happened a long time ago, and the general behavior of nations since then has been such that few peoples can afford to scorn those distasteful Frenchmen. Yet Costa-Gavras has a point worth making: it is that national decency rests on the sanctity of law; break that and the disease of moral accommodation will become epidemic.

Like all his films, *Special Section* is expensively set and scrupulously detailed. It has about it a glossy verisimilitude, with a cast whose every member looks so exactly right that his appearance is the major part of his performance. Ophuls made it clear in *The Sorrow and the Pity* that real people do not type themselves for the convenience of shorthand exposition, but then his film was an investigation into human behavior; *Special Section* attempts no more than a *trompe l'oeil* tableau. And as always with a Costa-Gavras film, I am made apprehensive by the format. It happens that he apes actuality in the cause of justice, but the technique is adaptable to any purpose, and it is a most effective kind of sleight of hand.

Jeff Bridges and Sam Waterston are teamed in *Rancho Deluxe* (directed by Frank Perry; screenplay by Thomas McGuane), the latest in the seemingly inexhaustible stream of sardonic Westerns. They are an ingratiating pair, and the comedy is energetic, though I think I might have laughed more if there had been subtitles: Bridges and Waterston affect such extravagantly sloppy diction, delivered usually against a background of revved-up engines, that I missed most of the wisecracks.

It is the tale of latter-day rustlers who drive around the edges of big cattle spreads in a pickup truck, armed with telescopic rifles and a chain saw. They then barter the



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prime cuts (leaving the bulk of the carcass to the scavengers) back in town. Anyone taking the film seriously might find it meretricious, in that one's reasonable protest against being asked to cheer the exploits of a couple of petty crooks has been studiously blocked off on all sides. Waterston plays a half-breed, disillusioned by the white man's culture; Bridges is a youth rebelling against suburban parents who keep a Rolls-Royce for running errands; and the victimized rancher (Clifton James) is porky, indecently wealthy and fatuous.

Still, the boys are full of high spirits and the scenery is great. There is also some soft porn (that is, the activity is explicit, but the camera avoids the obvious center of interest). I wouldn't mention the film, except that the distributors have collected some surprisingly full-blown quotes for their boom-boom ads. Slim Pickens plays a foxy cattle detective; it was a pleasure to see the old gentleman in such fine health. □

RECORDS

DAVID HAMILTON

RAVEL: *Daphnis et Chloë*. Camarata Singers; New York Philharmonic; Pierre Boulez, cond. Columbia M 33523. $6.98.

Paris Opera Chorus; Orchestre de Paris; Jean Martinon, cond. Angel S 37148. $6.98.

Cleveland Orchestra Chorus; Cleveland Orchestra; Lorin Maazel, cond. London CS 6898. $6.98.

Tanglewood Festival Chorus; Boston Symphony Orchestra; Seiji Ozawa, cond. Deutsche Grammophon 2530 563. $7.98.

From comparison of these four performances, by conductors of distinctly diverse inclinations, the surprising fact emerges that *Daphnis et Chloë* goes pretty well in every case. Save for one stodgy spot in Maazel's performance (the *Danse religieuse*), no tempo struck me as problematic, though dancers and choreographers might demur. Tempos are certainly very different: overall timings range from Ozawa's 51:27 to Maazel's 56:20—a spread of some 10 per cent—while the fact that Boulez comes out with the longest Side 1, the shortest Side 2, tends to confirm one's impression that the variation in individual passages is still greater (the same side break is observed in all four versions).

Daphnis is, to be sure, a superb ballet score, even if a superb ballet has never yet been danced to it. As a concert piece, however, it must make its way in terms of sonority and character, rather than on any attempt to argue a symphonic logic to which the score clearly doesn't aspire. It wants to be executed, not interpreted, and these conductors all realize that; the standards of precision, clarity, and security maintained in individual and ensemble work by the four orchestras are indeed remarkable. The special sonorous feature of the scoring is the instrumental treatment of a wordless chorus, dramatically effective in its suggestion of unseen powers watching over the human characters, and musically valid as providing a focus for Ravel's sound ideal, the choral sound often seeming immanent in that of the instruments. In the *Daybreak* episode that begins the final scene (and the familiar Second Suite, in separate performances of which, however, the choral parts are generally—and much less effectively—turned over to instruments), one should at the first choral entrance wonder whether they haven't been there already among the rustling of winds and harps. Here the recording engineer is as responsible as the conductor, and I would not know which to blame in the case of Martinon's recording, where the choral tone is too clear, and acoustically distinct from the orchestra.

Boulez handles this aspect of the score exceptionally well—one can imagine that it interests him rather more than the content of the piece—and I like the generally lean sound he favors, although the Philharmonic brass occasionally lapse into proclamatory excess. By comparison, Ozawa's reading is relatively nerveless, and uniquely shares a few idiosyncratic details with Münch's older Boston recording (suggesting that they are the orchestra's ideas rather than the conductor's). By comparison, Maazel seems ponderous, and Martinon suffers from the aforementioned acoustical flaw, but there's not a lot in it either way, and an economy-minded record buyer could do almost as well with an earlier London version (STS 15090, $3.98) conducted by Pierre Monteux, who presided at the ballet's première in 1912 and certainly knew how it ought to go.

Even to celebrate the centenary of Ravel's birth, four recordings of *Daphnis* seem excessive; all but the Maazel are in fact parts of series devoted to more or less all of Ravel's orchestral music—but that seems excessive, too. The only particular novelty among them is offered by one of Martinon's discs (Angel S 37147, $6.98), the first recording of the 1898 orchestral overture *Shéhérazade* (no particular relation to the later song cycle of the same title). This is one of the works turned up recently by Arbie Orenstein, and discussed in his methodical and well documented study *Ravel: Man and Musician* (Columbia University Press, $10.95).

We could well have traded a few of those orchestral records for the plugging of two large gaps in the catalogue, the opera *L'Heure Espagnole* and the late song cycle *Don Quichotte à Dulcinée* in its orchestral form. And I'm sorry, too, that there's no sign as yet of a retrospective survey of Ravel recordings, similar to the Fauré set that EMI/Pathé did in 1974; as Orenstein's discography shows, most of the music was recorded early in its career by Ravel or by his close associates, and very little of this is now available.

Among the centenary year's numerous other recordings, I was particularly impressed by Martha Argerich's piano collection (Deutsche Grammophon 2530-540, $7.98). What she does with *Le Gibet* from *Gaspard de la Nuit*, taken at a perilously slow pace, is perfectly controlled and stunningly effective. Earlier this year I enjoyed the first disc in Pascal Rogé's series of the "complete" piano music, and the second one, containing *Gaspard* and assorted shorter pieces (London CS 6895, $6.98), is also good, if not at Argerich's special level. Bernard Kruysen and Noël Lee offer a useful selection of songs (Telefunken 6.41873, $6.98), elegantly delivered and only partly duplicating Souzay's fine disc (Philips 839.733; now apparently out of print). The later chamber music is still not well covered on records, and so I am disappointed to report that a Marlboro disc containing the Violin and Cello Sonata and the Trio (Columbia M 33529, $6.98) proves to be deficient in both style and execution. □

FORMER OWNERS

They've come back
to reclaim the things they left behind:
the pink nightgown,
the shoes, the single oar.

She notices every change—
new dishes in the dresser,
the position of the chair.
She dusts the house with unhappiness.

I have done this too.
It is no good.
The room goes unfamiliar . . .

Now she is looking for
slippers, for sewing things.
She thinks I've ruined everything.

Deborah Tall

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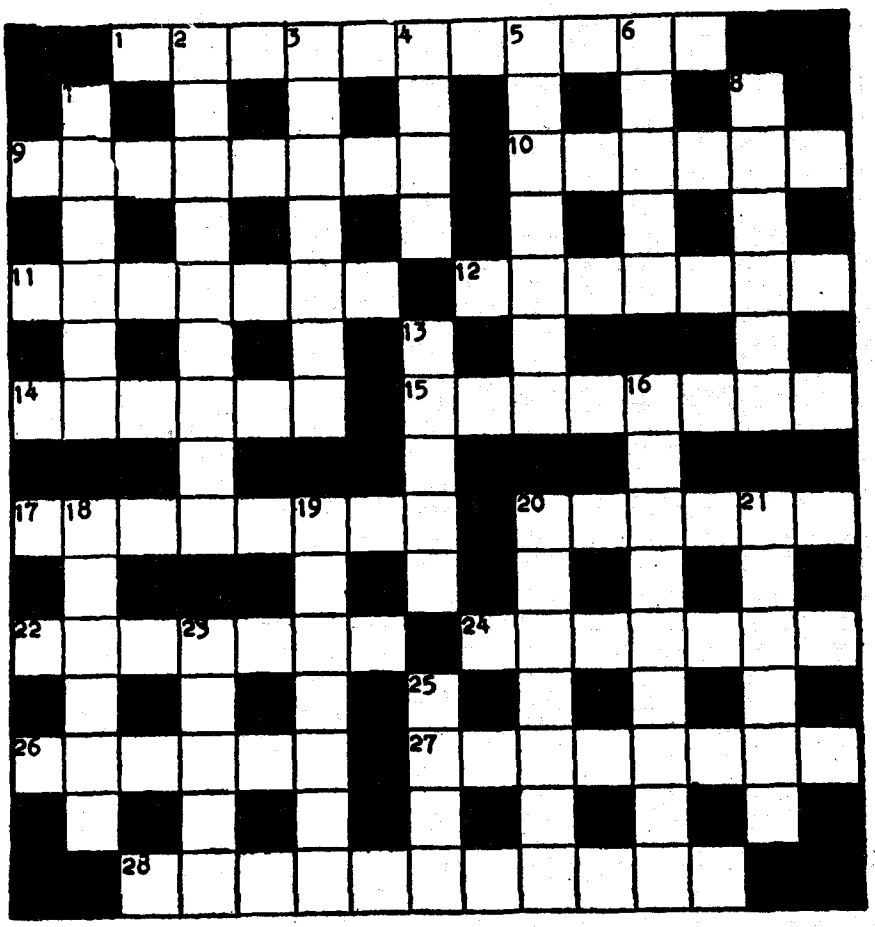
Crossword Puzzle No. 1613

FRANK W. LEWIS



ACROSS

1 What a lying dog might get, being perfectly all right. (2,2,7)
9 and 22 A model of paving, perhaps, to give you a specific idea. (8,7)
10 Wordsworth's was a solitary example of the non-grim type. (6)
11 Where tears flow with what the army does to youth at times. (7)
12 See 3 down
14 One pounder in the drug business. (6)
15 One of these is the --- and another is an ---. (8)
17 Said to be sad trees, when uprooted. (8)
20 The songster didn't go flat-footed through them (6)
24 Carries in stock things that might take their turn at various openings. (7)
26 What goes under many feet (about five) shows what one does with this effort. (6)
27 Meant to be applied to an old fiancee. (8)
28 Pain? (6,5)

DOWN

2 and 21 One might when the chess game is over, or before making any restart. (4,2,3,6)
3 and 12 Garland of memories somewhere here? (4,3,7)
4 Made a joyful noise with the hands, perhaps. (4)
5 Part of the chicken you might want on a level, facing the same way. (7)
6 You might set off with such a reaction as a restraining force. (5)
7 Quiet measure, but it might imply a seizure if you do. (6)
8 Concerning sitting, and the rest. (6)
13 Could be convenient for a jazzman. (5)
16 A lead coin counterfeited in old Scotland. (9)
18 Is an officer, male or female, not up to it? (6)
19 Relate to one's offspring, perhaps? Rats! (5,2)
20 One who gives you your health might pop up occasionally. (7)
21 See 2 down
23 Either one doesn't stay put, or helps someone else transfer property. (5)
25 Does the importunate one walk since it's not a horse? (4)

SOLUTION TO PUZZLE NO. 1612

ACROSS: 1 Give no quarter; 10 Restore; 11 Silicon; 12 Dallied; 14 Essence; 15 Eastern; 16 Audited; 20 Pianola; 23 Tuition; 24 Lunette; 25 Endmost; 26 Chateau; 27 Beside oneself. DOWN: 2 Insults; 3 Emotion; 4 and 13 Overdue account; 5 Upstate; 6 Relicts; 7 Exclude; 8 Bridge partner; 9 Instantaneous; 17 Dwindle; 18 Tripoli; 19 Dinette; 20 Pelican; 21 Annuals; 22 Oatmeal.

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